



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

**TUESDAY, DECEMBER 27, 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 Steve Chavez, Praise Assembly of God

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

E. SPECIAL RECOGNITIONS

E1 Proclamation: "Wastewater Utility Appreciation Day" - December 27, 2022; Andra Ahrens, Director of Wastewater

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 December 12, 2022, as distributed.

J1 City Council Minutes for December 12, 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 November 9, 2022

M. RESOLUTIONS

- M1 A Resolution awarding a construction contract in the amount of \$99,875.67 to Merriman Land Works dba Flat & Fancy for Project No. 22-094, Peakview Concrete Repairs, setting forth \$15,000 for contingencies, and authorizing the Purchasing Agent to execute same
- M2 A Resolution awarding a construction contract in the amount of \$64,089 to Baha Construction, Inc., for Project No. 22-084, Fire Station #5 - Concrete Repairs and Improvements, setting forth \$20,000 for contingencies, and authorizing the Purchasing Agent to execute same
- M3 A Resolution awarding an agreement for professional service in the amount of \$13,200 to Allison Rea to complete work as the Community Garden Sustainability Program Coordinator to Allison Rea to complete work as the Community Garden Sustainability Program Coordinator
- M4 A Resolution awarding a professional service contract in the amount of \$50,050 to Northeast Bucks and Company, doing business as M&L Associates, Inc., a Pennsylvania Corporation, for Project No. 22-097, technical and professional services for the development and submittal of the HOME-ARP Allocation Plan to the U.S. Department of Housing and Urban Development, setting forth \$24,000 in contingencies, and authorizing the purchasing agent to execute same
- M5 A Resolution extending the term of the American Rescue Plan Act Pueblo Community Gardens Project from December 31, 2022 until December 31, 2024
- M6 A Resolution amending Resolution No. 14854 to amend the list of identified Governmental Service Projects and funding allocation between said projects
- M7 A Resolution to amend Resolution No. 14931 to correct the contract award amount for Project No. 22-055E Emergency Repair Project for 522 and 530 Skyway
- M8 A Resolution approving and accepting the canvass and abstract of votes cast at the Special Municipal Election held on November 8, 2022 as part of a coordinated election with Pueblo County
- M9 A Resolution ratifying PACOG's joint appointment of Royal Trivett to the Regional Building Commission's Electrical Board of Appeals
- M10 A Resolution confirming the appointment by the Mayor of Alan Ward to the Pueblo Energy Advisory Commission
- M11 A Resolution confirming the appointment by the Mayor of Robyn Maestas, Anthony Perko, and Jan Schraner to the Historic Preservation Commission
- M12 A Resolution confirming the appointment by the Mayor of Jimmy Duffner to the Community Commission on Housing and Homelessness
- M13 A Resolution confirming the appointment of Barbara Huber to the position of Deputy Mayor

N. ORDINANCES – FIRST PRESENTATION

- N1 An Ordinance approving and authorizing the Mayor to sign a Subrecipient Agreement between the City of Pueblo, a Colorado Municipal corporation and Pueblo County, a political subdivision of the State of Colorado, as fiscal agent of the Pueblo County House Bill 04-1451 Collaborative Management Program, as authorized by Section 603 of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6 and authorizing the payment of twenty-five thousand dollars (\$25,000) from Project No. CI2113 - American Rescue Plan Act, for purposes thereof

- N2 An Ordinance establishing Project PL2201, Westside Trail (Wildhorse Trail) Project, and approving an Intergovernmental Agreement (IGA) between the City of Pueblo, a Colorado Municipal Corporation, and the State of Colorado, acting by and through the Colorado Department of Transportation (CDOT), Project: MTF M086-098 (25192) in the amount of \$850,000, budgeting and appropriating funds in the amount of \$850,000 and authorizing the Mayor to execute same
- N3 An Ordinance establishing Project PL2202, Lake Avenue and Orman Avenue Roundabout Project, and approving an Intergovernmental Agreement (IGA) between the City of Pueblo, a Colorado Municipal Corporation, and the State of Colorado, acting by and through the Colorado Department of Transportation (CDOT), Project: SHO M086-097 (25101) in the amount of \$1,350,000, transferring \$150,000 from CI2204 to PL2202, budgeting and appropriating funds in the amount of \$1,500,000 and authorizing the Mayor to execute same
- N4 An Ordinance approving an Intergovernmental Agreement between the City of Pueblo, a Municipal Corporation, and the Pueblo Department of Public Health and Environment, related to the establishment of Pueblo History and Art Walk and the installation of Community Wayfinding and Gateway Signs, and authorizing the Mayor to execute said agreement
- N5 An Ordinance approving an airport use and lease agreement between the City of Pueblo, a Municipal Corporation, and Southern Airways Express, LLC, and authorizing the Mayor to execute same
- N6 An Ordinance approving an airport community hangar lease agreement between the City of Pueblo, a Municipal Corporation, and Southern Airways Express, LLC, and authorizing the Mayor to execute same

O. APPROVAL OF CONSENT AGENDA

I move to receive and file the minutes of 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 January 9, 2022, and Order the Ordinances to be published BY TITLE.

P. REGULAR AGENDA

Q. RESOLUTIONS

- Q1 A Resolution approving the Pueblo Urban Renewal Authority Vendor Fee Budget for the Pueblo Convention Center and the Memorial Hall Capital Projects and Maintenance fund, for the calendar year 2023, commencing January 1, 2023 and ending the last day of December 2023

R. ORDINANCES – FINAL PRESENTATION

- R1 An Ordinance approving an amendment to the professional engineering services agreement between the City of Pueblo, a Municipal Corporation, and Dibble and Associates Consulting Engineers, Inc., for the rehabilitation of runway 8R/26L (Phase 1 - Design) at the Pueblo Memorial Airport, budgeting and appropriating \$49,807 to Project No. AP2205 – Rehab Runway 8R/26L Design and Construction, and authorizing the Mayor to execute same - *Introduced December 12, 2022 by Vicente Martinez Ortega*
- R2 An Ordinance approving the transfer of funds from Public Works Department operating funds to Project No. CIAN20 - City Building Repairs in the amount of \$300,000 - *Introduced December 12, 2022 by Vicente Martinez Ortega*
- R3 An Ordinance approving an agreement with Colorado Department of Transportation and

Continuum of Colorado for the transfer of three paratransit buses to be used in public transit operations - *Introduced December 12, 2022 by Vicente Martinez Ortega*

- R4 An Ordinance authorizing Amendment No. 18 to the agreement for community services planning, administration, and accountability services between the City of Pueblo, a Municipal Corporation, and the Board of County Commissioners of the County of Pueblo - *Introduced December 12, 2022 by Vicente Martinez Ortega*
- R5 An Ordinance establishing the BearCat Project NO. CI2220, transferring \$300,000 from the Police Department Account 101-20502-51030 and budgeting and appropriating \$300,000 for said Project - *Introduced December 12, 2022 by Vicente Martinez Ortega*
- R6 An Ordinance approving an internship between the City of Pueblo, a Municipal Corporation, Western Illinois University School of Law Enforcement and Justice Administration, and Katheryn Black and authorizing the Mayor to execute same - *Introduced December 12, 2022 by Vicente Martinez Ortega*
- R7 An Ordinance approving and accepting an addendum to the Department of Defense Law Enforcement Support Office ("LESO") program State Plan of Operation ("SPO") and applicable conditions pertaining thereto between the State of Colorado and the City of Pueblo on behalf of the Pueblo Police Department relating to Department of Defense excess property conditionally transferred to the City - *Introduced December 12, 2022 by Vicente Martinez Ortega*
- R8 An Ordinance amending Chapter 10 of Title IX of the Pueblo Municipal Code, updating business licensing provisions related to employment agencies - *Introduced December 12, 2022 by Vicente Martinez Ortega*
- R9 An Ordinance amending Chapter 3 of Title VII of the Pueblo Municipal Code by the addition of a new Article IV relating to the carryout bag fees imposed pursuant to the Plastic Pollution Reduction Act, Section 25-17-501 et seq., C.R.S., and providing for the enforcement, collection, remittance, and distribution of said fees - *Introduced December 12, 2022 by Vicente Martinez Ortega*
- R10 An Ordinance amending Section 14-4-21 of Title XIV of Chapter 4 of the Pueblo Municipal Code relating to the City's Sales and Use Tax Code and excluding the state carryout bag fee from the definition of purchase price - *Introduced December 12, 2022 by Vicente Martinez Ortega*
- R11 An Ordinance providing for the City of Pueblo departmental authorized personnel positions for the Fiscal Year 2023 - *Introduced December 12, 2022 by Vicente Martinez Ortega*

S. EMERGENCY ORDINANCE

- S1 An Emergency Ordinance approving and authorizing the Mayor to sign an Amendment No. 2 to the Subrecipient Agreement between the City of Pueblo, a Colorado Municipal Corporation and the Crazy Faith Street Ministry, a Colorado Nonprofit Corporation, as authorized by Section 603 of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6 and authorizing the payment of an additional fifty thousand four hundred dollars (\$50,400) from Project No. CI2113 - American Rescue Plan Act, for purposes thereof

T. COUNCIL MEMBER CONFLICT OF INTEREST

Councilors Heather Graham, Vicente Martinez Ortega and Sarah Martinez may ask to be excused from the meeting due to a potential conflict of interest with agenda item number T-1.

- T1 An Ordinance amending Sections 6-5-16 and 6-5-18 of Chapter 5, of Title VI of the Pueblo Municipal Code relating to the classification and pay plan for Fiscal Year 2023 - *Introduced*

December 12, 2022 by Vicente Martinez Ortega

U. ADJOURN



**REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS – CITY HALL
#1 CITY HALL PLACE
MONDAY, DECEMBER 12, 2022 - 7:00 PM
MINUTES**

A. CALL TO ORDER

President Graham called the meeting to order at 7:40 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

F. PUBLIC FORUM

- Elvis Martinez spoke on various topics
- Ted Freeman spoke regarding the half cent sales tax

G. COUNCIL MEMBER AND MAYOR COMMENTARY

Council members expressed comments regarding community-related issues and events/functions they attended.

H. REVIEW OF AGENDA

The agenda was reviewed page by page.

I. APPROVAL OF AGENDA

President Graham, seconded by Councilor Martinez Ortega, moved to table item R5.

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

Ortega. **Nays:** Councilor Atencio, Councilor Maestri, Councilor Winner. Motion Passed 4-3.

Councilor Martinez, seconded by Councilor Flores, requested to move item M7 to the regular agenda and moved to approve the agenda as amended.

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

J. READING AND APPROVAL OF MINUTES

J1 CITY COUNCIL MINUTES FOR NOVEMBER 28, 2022

Councilor Martinez Ortega, seconded by Councilor Flores, moved to dispense with the reading and approve the Minutes of the Regular Meeting dated **November 28, 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

L. COMMUNICATIONS

M. RESOLUTIONS

M1 A RESOLUTION AWARDED A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$14,136.14 TO MERRIMAN LAND WORKS DBA FLAT & FANCY FOR PROJECT NO. 22-098, JUAN MADRID AVENUE AND 9TH STREET CONCRETE REPAIRS, SETTING FORTH \$3,163.86 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

This Resolution was assigned as 15083.

M2 A RESOLUTION AWARDED A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$105,912 TO DOUG VAUGHN, LLC., A LIMITED LIABILITY COMPANY, FOR PROJECT NO. 22-077, MISCELLANEOUS REPAIRS - PHASE 2, SETTING FORTH \$15,868 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

This Resolution was assigned as 15084.

M3 A RESOLUTION TRANSFERRING \$588,119 FROM THE AIRPORT FUND TO PROJECT NO. AP2204 - EAST GA APRON REHABILITATION

This Resolution was assigned as 15085.

M4 A RESOLUTION AWARDED AN AGREEMENT FOR PROFESSIONAL SERVICES IN THE AMOUNT OF \$14,800 TO JOLENE COLLINS TO COMPLETE CURRICULUM REVISION AND SERVE AS THE CLASS INSTRUCTOR FOR THE PUEBLO FOOD PROJECT ENTREPRENEUR DEVELOPMENT PROGRAM

This Resolution was assigned as 15086.

M5 A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL SERVICES IN THE AMOUNT OF \$7,300 TO JOSLYN RAFFERTY-CAMMER TO COMPLETE WORK AS THE YOUTH LED CHICKEN COOP COORDINATOR

This Resolution was assigned as 15087.

M6 A RESOLUTION APPROVING REVISIONS TO THE STANDARD CONSTRUCTION SPECIFICATIONS AND STANDARD DETAILS FOR THE CITY OF PUEBLO

This Resolution was assigned as 15088.

M8 A RESOLUTION RATIFYING THE APPOINTMENT OF IRIS CLARK AND TRISHA MACIAS TO THE PUEBLO CITY-COUNTY LIBRARY DISTRICT BOARD OF TRUSTEES

This Resolution was assigned as 15089.

M9 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF ROXANNE PIGNANELLI TO THE PUEBLO HUMAN RELATIONS COMMISSION

This Resolution was assigned as 15090.

M10 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF RANDY MCCALL AND JESSICA MOORE TO THE SANGRE DE CRISTO ARTS AND CONFERENCE CENTER BOARD OF TRUSTEES

This Resolution was assigned as 15091.

M11 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF BRANDI ADAKAI, LORI ARABIE, LARA CARTAGENA, HEATHER MAIO, SPENCER MILES, MELISSA NERESON, DEAN PACE, AND DERIC STOWELL TO THE COMMUNITY COMMISSION ON HOUSING AND HOMELESSNESS (CCHH)

This Resolution was assigned as 15092.

N. ORDINANCES – FIRST PRESENTATION

N1 AN ORDINANCE APPROVING AN AMENDMENT TO THE PROFESSIONAL ENGINEERING SERVICES AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND DIBBLE AND ASSOCIATES CONSULTING ENGINEERS, INC., FOR THE REHABILITATION OF RUNWAY 8R/26L (PHASE 1 - DESIGN) AT THE PUEBLO MEMORIAL AIRPORT, BUDGETING AND APPROPRIATING \$49,807 TO PROJECT NO. AP2205 – REHAB RUNWAY 8R-26L DESIGN AND CONSTRUCTION, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

N2 AN ORDINANCE APPROVING THE TRANSFER OF FUNDS FROM PUBLIC WORKS DEPARTMENT OPERATING FUNDS TO PROJECT NO. CIAN20 - CITY BUILDING REPAIRS IN THE AMOUNT OF \$300,000

- N3 AN ORDINANCE APPROVING AN AGREEMENT WITH COLORADO DEPARTMENT OF TRANSPORTATION AND CONTINUUM OF COLORADO FOR THE TRANSFER OF THREE PARATRANSIT BUSES TO BE USED IN PUBLIC TRANSIT OPERATIONS**
- N4 AN ORDINANCE AUTHORIZING AMENDMENT NO. 18 TO THE AGREEMENT FOR COMMUNITY SERVICES PLANNING, ADMINISTRATION, AND ACCOUNTABILITY SERVICES BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF PUEBLO**
- N5 AN ORDINANCE PROVIDING FOR THE CITY OF PUEBLO DEPARTMENTAL AUTHORIZED PERSONNEL POSITIONS FOR THE FISCAL YEAR 2023**
- N6 AN ORDINANCE AMENDING SECTIONS 6-5-16 AND 6-5-18 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE CLASSIFICATION AND PAY PLAN FOR FISCAL YEAR 2023**
- N7 AN ORDINANCE ESTABLISHING THE BEARCAT PROJECT NO. CI2220, TRANSFERRING \$300,000 FROM THE POLICE DEPARTMENT ACCOUNT 101-20502-51030 AND BUDGETING AND APPROPRIATING \$300,000 FOR SAID PROJECT**
- N8 AN ORDINANCE APPROVING AN INTERNSHIP BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, WESTERN ILLINOIS UNIVERSITY SCHOOL OF LAW ENFORCEMENT AND JUSTICE ADMINISTRATION, AND KATHERYN BLACK AND AUTHORIZING THE MAYOR TO EXECUTE SAME**
- N9 AN ORDINANCE APPROVING AND ACCEPTING AN ADDENDUM TO THE DEPARTMENT OF DEFENSE LAW ENFORCEMENT SUPPORT OFFICE ("LESO") PROGRAM STATE PLAN OF OPERATION ("SPO") AND APPLICABLE CONDITIONS PERTAINING THERETO BETWEEN THE STATE OF COLORADO AND THE CITY OF PUEBLO ON BEHALF OF THE PUEBLO POLICE DEPARTMENT RELATING TO DEPARTMENT OF DEFENSE EXCESS PROPERTY CONDITIONALLY TRANSFERRED TO THE CITY**
- N10 AN ORDINANCE AMENDING CHAPTER 10 OF TITLE IX OF THE PUEBLO MUNICIPAL CODE, UPDATING BUSINESS LICENSING PROVISIONS RELATED TO EMPLOYMENT AGENCIES**

N11 AN ORDINANCE AMENDING CHAPTER 3 OF TITLE VII OF THE PUEBLO MUNICIPAL CODE BY THE ADDITION OF A NEW ARTICLE IV RELATING TO THE CARRYOUT BAG FEES IMPOSED PURSUANT TO THE PLASTIC POLLUTION REDUCTION ACT, SECTION 25-17-501 ET SEQ., C.R.S., AND PROVIDING FOR THE ENFORCEMENT, COLLECTION, REMITTANCE, AND DISTRIBUTION OF SAID FEES

N12 AN ORDINANCE AMENDING SECTION 14-4-21 OF TITLE IVX OF CHAPTER 4 OF THE PUEBLO MUNICIPAL CODE RELATING TO THE CITY'S SALES AND USE TAX CODE AND EXCLUDING THE STATE CARRYOUT BAG FEE FROM THE DEFINITION OF PURCHASE PRICE

O. APPROVAL OF CONSENT AGENDA

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve all Resolutions Set Forth in the Consent Agenda, Pass the Ordinances of the Consent Agenda, Setting the Public Hearings for December 27, 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

M7 A RESOLUTION NAMING THE ARKANSAS RIVER LEVEE PEDESTRIAN BRIDGES AFTER CHARLES W. LEE AND G. HARVEY NUCKOLLS

A staff report and detailed review of the Resolution was given by Mike Taft, Parks & Recreation Department, and Corinne Koehler, Pueblo Conservancy District.

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 15093.

Q1 A RESOLUTION TRANSFERRING FUNDS IN THE AMOUNT OF \$450,000 FROM PROJECT CI2204, STREET REHABILITATION PROJECT TO CI2121, 18TH STREET EXTENSION, AWARDED A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$1,541,884 TO K.R. SWERDFEGER CONSTRUCTION FOR PROJECT NO. 22-082, WEST 18TH STREET EXTENSION, SETTING FORTH \$200,000 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

A staff report and detailed review of the Resolution was given by Andrew Hayes, Director of Public Works.

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 15094.

Q2 A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO PUEBLO FRIENDS OF THE ARKANSAS RIVER IN THE AMOUNT OF \$500 TO SPONSOR THE WINTER SOLSTICE LANTERN PARADE ON SATURDAY, DECEMBER 17 FROM 2 - 7 PM AT THE PILLAR PARK, THE LEVEE TRAIL, AND THE NEW PEDESTRIAN BRIDGE

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 15095.

R. ORDINANCES – FINAL PRESENTATION

R1 AN ORDINANCE BUDGETING AND APPROPRIATING INSURANCE PROCEEDS IN THE AMOUNT OF \$148,338.77 INTO PROJECT SWAN01 EQUIPMENT PURCHASES STORMWATER

A staff report and detailed review of the Ordinance was given by Andrew Hayes, Director of Public Works.

PUBLIC HEARING:

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

Councilor Martinez Ortega, seconded by Councilor Martinez, 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 10349.

R2 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**

A staff report and detailed review of the Ordinance was given by Andrew Hayes, Director of Public Works.

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 10350.

**R3 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**

A staff report and detailed review of the Ordinance was given by Barb Huber, Fire Chief.

PUBLIC HEARING:

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

Councilor Martinez Ortega, seconded by Councilor Martinez, 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 10351.

**R4 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**

A staff report and detailed review of the Ordinance was given by Mayor Nicholas Gradisar.

PUBLIC HEARING:

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

Councilor Martinez, seconded by Councilor Flores, moved to amend the Ordinance as redlined by staff.

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

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 **10352**.

R5 AN ORDINANCE REQUIRING ABORTION PROVIDERS IN PUEBLO TO COMPLY WITH FEDERAL LAW

This item was tabled.

S. ADJOURN

President Graham adjourned the meeting at 8:42 p.m.

Respectfully submitted,

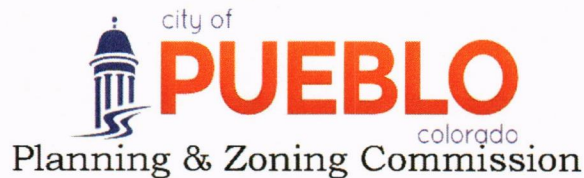


Marisa Stoller
City Clerk

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, November 9, 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 3:38 p.m. with Commissioner Castellucci presiding.

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

Board Members Absent: None

Staff Members Present: Scott Hobson, Acting Director for Department of Planning and Community Development; Beritt Odom, Principal Planner, and Daniel Kogovsek, Board Attorney.

APPROVAL OF THE AGENDA: Bailey moved to approve the October 12, 2022, agenda motion was seconded by Avalos. Motion passed 7-0

Public Meetings and Action:

1. GU-22-01 2727 W. 18th St. Chavez Huerta Development Plan Review for a 73,501 square foot addition to the Delores Huerta Preparatory High School. The addition will increase the size of the existing high school and house Ersilia Cruz Middle School.

Discussion:

- Applicant, Jack Bay, explained the reason for the proposed school addition and how they plan to accommodate emergency services with the new site layout.
- Robin Kriss from JVA Architects stated that they met with fire and Transportation Department to accommodate emergency services with the new site layout.

Commission action: The Commission unanimously supported staff comments provided in the staff report:

1. CDOT: Please see the attached letter from Teresa Guagliardo, CDOT R2 Access Management Trainee, October 26, 2022.
2. Stormwater: Please see the attached memo from John Sakariason, Stormwater Coordinator, October 28, 2022.
3. Wastewater: Add the following statement to Sheet 3 of 7, Cesar Chavez Academy Ersilia Cruz Middle school, Planning and Zoning Site Development Submittal, General Note 3., "since no additional domestic water meters will be installed."
4. Transportation: Please see the attached memorandum from Melanie Turner, Interim Traffic Engineer, November 2, 2022 and the associated redlined plans, "DOT 2nd Review markups GU-22-01."

Approval of Minutes: October 12, 2022

Bailey moved to approve minutes as presented. The motion was seconded by Avalos.

Motion passed 7 to 0

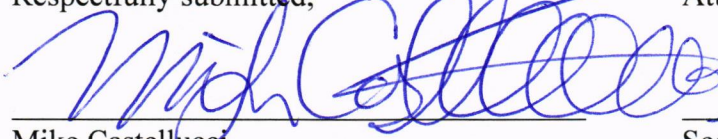
Old/New Business:

Adjourn

There being no further business the Regular Meeting was adjourned at 4:20 p.m.

Respectfully submitted,

Attest:



Mike Castellucci
Chairperson



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: December 27, 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 \$99,875.67 TO MERRIMAN LAND WORKS DBA FLAT & FANCY FOR PROJECT NO. 22-094, PEAKVIEW CONCRETE REPAIRS, SETTING FORTH \$15,000 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a Resolution awarding a Construction Contract to Merriman Land Works dba Flat & Fancy for 22-094, Peakview Concrete Repairs.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The Project will remove and replace the curb and gutter along the east side of North Peakview Drive between North Drive and South Drive. Work may include sidewalks, driveways, curb and gutter, and asphalt patching. This project is necessary to fix drainage issues within the public right-of-way. The Resolution awards the Construction Contract to Merriman Land Works dba Flat & Fancy.

FINANCIAL IMPLICATIONS:

Funding (including contingencies) in the amount of \$114,875.67 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. 22-094 Bid Summary Peakview Concrete Repairs

RESOLUTION NO. 15096

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$99,875.67 TO MERRIMAN LAND WORKS DBA FLAT & FANCY FOR PROJECT NO. 22-094, PEAKVIEW CONCRETE REPAIRS, SETTING FORTH \$15,000 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for Project No. 22-094, Peakview Concrete Repairs have been received and examined; and

WHEREAS, the proposal of Merriman Land Works dba Flat & Fancy, 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. 22-094, Peakview Concrete Repairs to be performed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council authorizes Project No. 22-094, Peakview Concrete Repairs to be performed, and the contract for said project is hereby awarded to Merriman Land Works dba Flat & Fancy in the amount of \$99,875.67.

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 the 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.....\$15,000.00

SECTION 4.

Funds for Project 22-094 (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: December 27, 2022

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
DEPUTY CITY CLERK



City of Pueblo
Purchasing

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

EVALUATION TABULATION

IFB No. 22-094 (CI2204)

Peakview Concrete Repairs

RESPONSE DEADLINE: December 2, 2022 at 10:00 am

Report Generated: Friday, December 2, 2022

SELECTED VENDOR TOTALS

Vendor	Total
Flat and Fancy	\$99,875.67

BASE BID

					Flat and Fancy	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
X	1	Remove Curb and Gutter	672	LF	\$4.90	\$3,292.80
X	2	Remove Concrete	3982	SF	\$3.50	\$13,937.00
X	3	Remove Reinforced Concrete	119	SF	\$3.75	\$446.25
X	4	Remove Asphalt Roadway	1590	SF	\$3.00	\$4,770.00
X	5	Construct Curb and Gutter	672	LF	\$26.00	\$17,472.00
X	6	Construct Curb Head	62	LF	\$18.86	\$1,169.32
X	7	Construct 4" Concrete	3601	SF	\$5.30	\$19,085.30

EVALUATION TABULATION
 IFB No. 22-094 (CI2204)
 Peakview Concrete Repairs

Selected	Line Item	Description	Quantity	Unit of Measure	Flat and Fancy	
					Unit Cost	Total
X	8	Construct 6" Concrete	1492	SF	\$5.75	\$8,579.00
X	9	Construct 7" Reinforced Concrete	119	SF	\$15.00	\$1,785.00
X	10	Construct Asphalt Roadway Patch	1353	SF	\$13.00	\$17,589.00
X	11	Install 24" x 30" Tactile Band	8	EA	\$150.00	\$1,200.00
X	12	Install Class 6 Road Base	50	TON	\$55.00	\$2,750.00
X	13	Erosion and Sediment Control	1	LS	\$300.00	\$300.00
X	14	Traffic Control	1	LS	\$1,500.00	\$1,500.00
X	15	Mobilization	1	LS	\$6,000.00	\$6,000.00
Total						\$99,875.67

VENDOR QUESTIONNAIRE PASS/FAIL

Question Title	Flat and Fancy	Greatland Concrete & Landscaping INC (Disqualified)
BID GUARANTEE	Pass	Fail
CONFIRMATION OF UNDERSTANDING AND OFFER	Pass	Pass
NAME, TITLE, AND CONTACT INFORMATION	Pass	Pass
ACKNOWLEDGEMENTS	No Response	No Response
AFFIRMATIVE ACTION PLAN REQUIREMENT:	Pass	Pass

EVALUATION TABULATION
 IFB No. 22-094 (CI2204)
 Peakview Concrete Repairs

Question Title	Flat and Fancy	Greatland Concrete & Landscaping INC (Disqualified)
COLORADO LABOR REQUIREMENT:	Pass	Pass
SALES AND/OR USE TAX INFORMATION	Pass	Pass
Has/is this firm or any officer or partner of this firm:	No Response	No Response
Convicted of a criminal offense	Pass	Pass
Convicted under state or federal statutes	Pass	Pass
Convicted under state or federal antitrust statutes	Pass	Pass
Failed to perform	Pass	Pass
Suspension or Debarment	Pass	Pass
Unqualified	Pass	Pass
Unlicensed	Pass	Pass
Delinquent	Pass	Pass
Confirmation	Pass	Pass



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: December 27, 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 \$64,089 TO BAHA CONSTRUCTION, INC., FOR PROJECT NO. 22-084, FIRE STATION #5 - CONCRETE REPAIRS AND IMPROVEMENTS, SETTING FORTH \$20,000 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a resolution awarding a construction contract to Baha Construction, Inc., for 22-084, Fire Station #5 - Concrete Repairs and Improvements.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

In general, this project will consist of concrete repairs and improvements at Fire Station #5. This project is necessary to repair the damaged driveway apron and subbase which services the truck bays. This project will also repair the concrete parking area adjacent to the apron and the curb and gutter in front of the fire station. The Resolution awards the construction contract to Baha Construction, Inc.

FINANCIAL IMPLICATIONS:

Funding (including contingencies) in the amount of \$84,089 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. 22-084 Bid Summary Fire Station 5 - Concrete Repairs and Improvements

RESOLUTION NO. 15109

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$64,089 TO BAHAM CONSTRUCTION, INC., FOR PROJECT NO. 22-084, FIRE STATION #5 - CONCRETE REPAIRS AND IMPROVEMENTS, SETTING FORTH \$20,000 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for Project No. 22-084, Fire Station #5 - Concrete Repairs and Improvements have been received and examined; and

WHEREAS, the proposal of Baha Construction, Inc., 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. 22-084, Fire Station #5 - Concrete Repairs and Improvements to be performed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The City Council authorizes Project No. 22-084, Fire Station #5 - Concrete Repairs and Improvements to be performed, and the contract for said project is hereby awarded to Baha Construction, Inc., in the amount of \$64,089.00.

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 the 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.....\$20,000.00

SECTION 4.

Funds for Project 22-084 (including contingencies and additional work) shall be from Project No. C12204, 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: December 27, 2022

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
DEPUTY CITY CLERK



City of Pueblo
Purchasing

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

EVALUATION TABULATION
IFB No. 22-084 (CI2204)
Fire Station #5 - Concrete Repairs and Improvements
RESPONSE DEADLINE: December 9, 2022 at 10:00 am
Report Generated: Friday, December 9, 2022

SELECTED VENDOR TOTALS

Vendor	Total
Baha Construction, Inc.	\$64,089.00
American Dirt Contractors, LLC	\$74,709.85
JARCCO Construction LLC	\$97,665.00
Flat and Fancy	\$107,296.30

BASE BID

					American Dirt Contractors, LLC		Baha Construction, Inc.		Flat and Fancy		JARCCO Construction LLC	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	1	Remove Curb and Gutter	215	LF	\$25.50	\$5,482.50	\$2.00	\$430.00	\$11.91	\$2,560.65	\$16.00	\$3,440.00
X	2	Remove Concrete	2430	SF	\$6.00	\$14,580.00	\$1.80	\$4,374.00	\$5.00	\$12,150.00	\$3.50	\$8,505.00
X	3	Remove Asphalt	430	SF	\$10.00	\$4,300.00	\$4.00	\$1,720.00	\$4.00	\$1,720.00	\$3.50	\$1,505.00

EVALUATION TABULATION

IFB No. 22-084 (CI2204)

Fire Station #5 - Concrete Repairs and Improvements

Selected	Line Item	Description	Quantity	Unit of Measure	American Dirt Contractors, LLC		Baha Construction, Inc.		Flat and Fancy		JARCCO Construction LLC	
					Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	4	Overexcavate 12-inches of subgrade	1600	SF	\$1.75	\$2,800.00	\$1.10	\$1,760.00	\$4.75	\$7,600.00	\$5.00	\$8,000.00
X	5	Construct Curb and Gutter	215	LF	\$39.06	\$8,397.90	\$35.00	\$7,525.00	\$51.45	\$11,061.75	\$43.00	\$9,245.00
X	6	Construct 6" Concrete	815	SF	\$9.13	\$7,440.95	\$8.00	\$6,520.00	\$13.86	\$11,295.90	\$13.00	\$10,595.00
X	7	Construct 7" Reinforced Concrete	1600	SF	\$11.66	\$18,656.00	\$9.50	\$15,200.00	\$19.48	\$31,168.00	\$15.00	\$24,000.00
X	8	Construct 6" Asphalt Patch	430	SF	\$12.00	\$5,160.00	\$8.00	\$3,440.00	\$13.00	\$5,590.00	\$10.00	\$4,300.00
X	9	Subgrade Stabilization	115	Ton	\$29.50	\$3,392.50	\$78.00	\$8,970.00	\$110.00	\$12,650.00	\$105.00	\$12,075.00
X	10	Erosion and Sediment Control BMPs	1	LS	\$350.00	\$350.00	\$1,950.00	\$1,950.00	\$500.00	\$500.00	\$2,500.00	\$2,500.00
X	11	Traffic Control	1	LS	\$3,000.00	\$3,000.00	\$800.00	\$800.00	\$2,500.00	\$2,500.00	\$4,500.00	\$4,500.00
X	12	Mobilization	1	LS	\$1,150.00	\$1,150.00	\$11,400.00	\$11,400.00	\$8,500.00	\$8,500.00	\$9,000.00	\$9,000.00
Total						\$74,709.85		\$64,089.00		\$107,296.30		\$97,665.00

VENDOR QUESTIONNAIRE PASS/FAIL

EVALUATION TABULATION

Invitation for Bids - Fire Station #5 - Concrete Repairs and Improvements

Page 2

EVALUATION TABULATION

IFB No. 22-084 (CI2204)

Fire Station #5 - Concrete Repairs and Improvements

Question Title	American Dirt Contractors, LLC	Baha Construction, Inc.	Flat and Fancy	JARCCO Construction LLC
BID GUARANTEE	Pass	Pass	Pass	Pass
CONFIRMATION OF UNDERSTANDING AND OFFER	Pass	Pass	Pass	Pass
NAME, TITLE, AND CONTACT INFORMATION	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
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

EVALUATION TABULATION

Invitation for Bids - Fire Station #5 - Concrete Repairs and Improvements

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EVALUATION TABULATION

IFB No. 22-084 (CI2204)

Fire Station #5 - Concrete Repairs and Improvements



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: December 27, 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 AWARDING AN AGREEMENT FOR PROFESSIONAL SERVICE IN THE AMOUNT OF \$13,200 TO ALLISON REA TO COMPLETE WORK AS THE COMMUNITY GARDEN SUSTAINABILITY PROGRAM COORDINATOR TO ALLISON REA TO COMPLETE WORK AS THE COMMUNITY GARDEN SUSTAINABILITY PROGRAM COORDINATOR

SUMMARY:

Attached is a Resolution awarding an Agreement for Professional Services to Allison Rea for the completion of work as the Community Garden Sustainability Coordinator.

PREVIOUS COUNCIL ACTION:

Not applicable to this Resolution.

BACKGROUND:

The City of Pueblo through the Pueblo Food Project solicited requests for proposals to fill the position of Community Garden Sustainability Coordinator. PFP was awarded funding from ARPA to build this program. This will be our second year of the program.

One proposal was received from community members and reviewed by the Pueblo Food Project.

FINANCIAL IMPLICATIONS:

Funding in the amount of \$13,200.00 will be paid out of Project No. CI2216 for this service.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

Not applicable to this Resolution.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Agreement for Professional Services - Allison Rea

RESOLUTION NO. 15097

A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL SERVICE IN THE AMOUNT OF \$13,200 TO ALLISON REA TO COMPLETE WORK AS THE COMMUNITY GARDEN SUSTAINABILITY PROGRAM COORDINATOR TO ALLISON REA TO COMPLETE WORK AS THE COMMUNITY GARDEN SUSTAINABILITY PROGRAM COORDINATOR

WHEREAS, informal competitive bids for the Community Garden Sustainability Coordinator have been received and examined; and

WHEREAS, the proposal of Allison Rea of Pueblo, Colorado was the sole bid determined to be responsive for the assessment, and the Committee of Awards recommends to the City Council that it authorize Project Pueblo Food Project Community Garden Sustainability Coordinator; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that
SECTION 1.

City Council authorizes Project Pueblo Food Project Community Garden Sustainability Coordinator to be performed and the agreement for said project is hereby awarded to Allison Rea in the amount of \$13,200.00.

SECTION 2.

The Agreement for Professional Services between the City of Pueblo, a Municipal Corporation, and Allison Rea, which is attached hereto and incorporated herein, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

Funds for the Project Pueblo Food Project Community Garden Sustainability Coordinator shall be paid from Project No. CI2216.

SECTION 4.

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 5.

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.

SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: December 27, 2022

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
DEPUTY CITY CLERK

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered this ____ day of _____, 20__ ("Effective Date"), by and between the City of Pueblo, a Colorado Municipal Corporation, (hereinafter referred to as "Client") and Allison Rea, a Colorado sole proprietor and individual, (hereinafter referred to as "Consultant") for Consultant to render professional services for Client with respect to the Community Garden Sustainability Project Coordinator and related ancillary services, hereinafter referred to as the "Project". In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

SECTION 1. GENERAL AND SCOPE OF SERVICES.

(a) Consultant shall satisfactorily perform the professional consulting services for the Project described in more detail in *Schedule 1* attached hereto and incorporated herein by reference, including but not limited to those items set forth in the designated American Rescue Plan Act ("ARPA") proposal outline (the "Basic Services"). Such services shall include all usual and customary professional consulting services in connection with Consultant's work on the Project.

(b) Consultant shall maintain prudent and accurate records of all transactions. The Consultant shall track all project activities. Client will not reimburse or otherwise pay for any of Consultant's transactions, as such costs are part of Consultant's business.

(c) To the extent Consultant performs any of the Project work through subcontractors or subconsultants, Consultant shall be and remain as fully responsible for the full performance and quality of services performed by such subcontractors or subconsultants as it is for services performed directly by Consultant or Consultant's employees.

(d) To the extent Consultant requires access to private property to perform its services hereunder, Consultant shall be required to make arrangements to obtain such access. However, in the event Client has already secured access for Consultant to any such property through a right of entry agreement, access agreement, letter of consent or other instrument, Consultant shall fully comply with and be subject to the terms and conditions set forth therein. A copy of any such instrument will be provided to Consultant upon request.

SECTION 2. CONSULTANT'S RESPONSIBILITIES.

(a) Consultant shall be responsible for the professional quality, technical accuracy, and timely completion of Consultant's work, including that performed by Consultant's subconsultants and subcontractors, and including reports and other services, notwithstanding Client's initial acceptance of same.

(b) Consultant shall be responsible, in accordance with applicable law, to Client for all loss or damage to Client caused by Consultant's negligent act or omission; and Consultant hereby irrevocably waives and excuses Client and Client's 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, whether now existing or hereafter enacted.

(c) Consultant shall be completely responsible for the safety of Consultant's employees in the execution of work under this Agreement and shall provide all necessary safety and protective equipment for said employees, if any.

(d) Before undertaking any work or incurring any expense which Consultant considers beyond or in addition to the Statement of Work described in *Schedule 1* or otherwise contemplated by the terms of this Agreement, Consultant shall advise Client in writing that (i) Consultant considers the work beyond the scope of this Agreement, (ii) the reasons that 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 any out of scope or additional work until authorized in writing by Client. The compensation for such authorized work shall be negotiated. Unauthorized work shall not be compensated.

SECTION 3. FEES FOR SERVICES; PAYMENT.

(a) Client 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, the maximum sum of U.S. \$13,200.00. Consultant may invoice Client for up to forty (40) hours of Consultant work per calendar month at a

rate of \$27.50 per hour of work. No monthly invoice from Consultant shall exceed \$1,100.00. Payments shall be made within forty-five (45) days of invoice by Consultant.

(b) Consultant shall submit periodically, but not more frequently than monthly, records of time worked and services rendered. Records shall contain appropriate documentation, if available, evidencing that such services have been performed. Consultant must submit a written request and obtain signed approval prior to completing any work beyond the scope of this agreement.

(c) No separate or additional payment shall be made for profit, overhead, telephone expenses, travel, lodging, routine photocopying, computer time, secretarial or clerical time, or similar expenses.

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

(e) Compensation for authorized work beyond the scope of this Agreement shall be governed by the provisions of Section 2(d).

(f) In the event services under this Agreement are phased and to be performed in more than one fiscal year or are subject to annual appropriation, Consultant acknowledges that funds only in the amount of initial appropriation are available and it shall confirm availability of funds before proceeding with work exceeding initial and subsequent annual appropriations.

SECTION 4. CLIENT'S RESPONSIBILITIES.

(a) Client agrees to advise Consultant regarding Client's Project requirements and to provide all relevant information, data, and previous reports accessible to Client which Consultant may reasonably require.

(b) Client shall designate a Project Representative to whom all communications from Consultant shall be directed and who shall have limited administrative authority on behalf of Client to receive and transmit information and make decisions with respect to the Project. Said representative shall not, however, have authority to bind Client as to matters of governmental policy or fiscal policy, nor to contract for additions or obligations exceeding a value which is the lesser of \$5,000.00 or 5% of the maximum contract price.

(c) Client shall examine all documents presented by Consultant, and render decisions pertaining thereto within a reasonable time. The Client's approval of any reports, documents or other materials or product furnished hereunder shall not in any way relieve Consultant of responsibility for the professional adequacy of its work.

(d) Client shall perform its obligations and render decisions within a reasonable time under the circumstances presented. Based upon the nature of Client and its requirements, a period of fourteen (14) days shall be presumed reasonable for any decision not involving policy decision or significant financial impact, when all information reasonably necessary for Client to responsibly render a decision has been furnished. A period of forty-five (45) days shall be presumed reasonable for Client to act with respect to any matter involving policy or significant financial impact. The above periods of presumed reasonableness shall be extended where information reasonably required is not within the custody or control of Client but must be procured from others.

SECTION 5. TERM AND TERMINATION.

(a) Term. The term of this Agreement begins on the Effective Date and will continue until such time as the Basic Services are completed or the maximum compensation provided for complete performance in Section 3(a) is reached, whichever occurs first, unless otherwise sooner terminated in accordance with this Agreement. Client reserves the right to extend the term of this Agreement in one-year increments by written acceptance of both parties.

(b) Fund Appropriation. This agreement 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 agreement, with respect to any financial obligation of Client which may arise under this agreement in any fiscal year after the current 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 agreement. The termination of this Agreement due to lack of funding shall be without penalty to the Client.

(c) Client 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 and stop incurring expenses, and shall promptly deliver to Client all data, 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.

(d) Upon termination of this Agreement for events or reasons not the fault of Consultant, Consultant shall be paid the monthly rate on a pro-rated basis for all services rendered and reasonable costs incurred to date of termination, together with any reasonable costs incurred within ten (10) days of termination provided such latter costs could not be avoided or were incurred in mitigating loss or expenses to Consultant or Client. In no event shall payment to Consultant upon termination exceed the maximum compensation provided for complete performance in Section 3(a).

(e) 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 consultants, 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, Consultant'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 monthly rate on a pro-rated basis for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.

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

SECTION 6. SITE ACCESS.

In the event the Project will require access to property not under the control of Client, Consultant and Consultant's employees and consultants shall obtain all additional necessary approval and clearances required for access to such property. Client shall assist Consultant in obtaining access to such property at reasonable times but makes no warranty or representation whatsoever regarding access to such property. Notwithstanding the foregoing, Consultant understands and agrees that entry to some property by Consultant may be subject to compliance by Consultant with the terms and conditions of an access agreement in accordance with section 1(d) of this Agreement.

SECTION 7. EQUIPMENT AND SOFTWARE.

Consultant will not be provided with Client owned equipment ("Equipment"), such as computers or software, for Consultant's work on the Project. All equipment must be provided by Consultant and Consultant shall make no claim to any Equipment or other Client property provided under this Agreement. Consultant shall cooperate in all instances with Client to ensure compliance with Client's policies, including its information technology policies, and the protection of Client's data and systems.

SECTION 8. USE OF DOCUMENTS.

Data, plans, reports, and all other documents prepared or provided by Consultant hereunder shall become the sole property of Client, and Client shall be vested with all rights therein of whatever kind or nature and however created, whether by common law, statute, or equity. Client shall have access at all reasonable times to inspect and make copies of all notes, plans, reports and all other data or other documents pertaining to the work to be performed under this Agreement. In no event shall Consultant publish work product developed pursuant to this Agreement except (i) with advance written consent of Client, which consent may be granted or withheld in Client's sole and absolute discretion, and (ii) in full compliance with the requirements of this Agreement and applicable regulations.

SECTION 9. INSURANCE AND INDEMNITY.

(a) Consultant agrees that it shall procure 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 personal injury including bodily injury, sickness or disease or death of any of its employees or of any person other than its employees, claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and from claims for damages for professional liability.

(b) Consultant agrees to hold harmless, defend, and indemnify Client from and against any liability to third parties, arising out of negligent acts or omissions of Consultant, its employees, subcontractors, and consultants.

SECTION 10. REQUIRED GRANT PROVISIONS

(a) Consultant understands that Client may be funding the Project in whole or part with funds provided through State and Federal grants, including but not limited to ARPA. Consultant agrees it is subject to and shall comply with all applicable provisions of said grants, the Act under which the contract award has been made, and applicable regulations.

(b) Consultant shall comply with all applicable Federal, State, and local laws applicable to its activities.

(c) All records with respect to any matters covered by this Agreement shall be available for inspection by Client and the grant providers at any time during normal business hours and as often as Client and the grant providers deem necessary, to audit, examine, and make excerpts or transcripts of relevant information, and otherwise to perform official functions or duties.

(d) A copy of the Grant is attached hereto as Schedule 4 and incorporated herein.

SECTION 11. SUBCONTRACTS.

(a) Client acknowledges that Consultant is the prime contractor and the only party with whom Client has a contractual relationship under this Agreement. To the extent Consultant performs any Project activities through subconsultants or subcontractors, Consultant shall contractually bind each of its subconsultants and subcontractors by subcontract agreement to all of the terms of this Agreement which are for the benefit of Client, and Client shall be a third-party beneficiary of those subcontract provisions.

(b) Consultant shall indemnify and defend Client from all claims and demands for payment for services provided by subcontractors of Consultant.

(c) Consultant acknowledges that, due to the nature of the services to be provided under this Agreement, the Client has a substantial interest in the personnel and consultants to whom Consultant assigns principal responsibility for services performed under this Agreement. Consequently, Consultant shall not assign or reassign Project work to any person to whom Client has reasonable objection.

SECTION 12. MISCELLANEOUS.

(a) 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 Consultant or Client 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 Client, Attention: Nicholas A. Gradisar, Mayor, 1 City Hall Place, Pueblo, Colorado 81003; or to Consultant, Attention: Allison Rea, 1341 E. 12th Street, Pueblo, Colorado 81001. Either party may change its 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.

(b) Entire Agreement. This instrument contains the entire agreement between Consultant and Client respecting the Project, and any other written or oral agreement or representation respecting the Project or the duties of either Client or Consultant in relation thereto not expressly set forth in this instrument and its attachments is null and void. In the case of any conflict between the terms of this Agreement for Professional Services and terms of *Schedule 1* or any other attachment hereto, the terms of this Agreement shall govern.

(c) Successors and Assigns. This Agreement shall be binding on the parties hereto and on their successors and assigns; provided, however, neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to Consultant may be assigned by it without the written consent of Client, which consent may be withheld in Client's sole and absolute discretion. Any assignment or attempted assignment in violation of this subsection shall be void.

(d) Amendments. No amendment to this Agreement shall be made nor be enforceable unless made by written amendment signed by an authorized representative of Consultant and by Client in accordance with the requirements of Section 4(b) of this Agreement or upon authorization of Client's governing board.

(e) Choice of Law. This Agreement shall be governed and interpreted in accordance with the laws of the State of Colorado. Any unresolved dispute arising from or concerning any breach of this Agreement shall be decided in a state court of competent jurisdiction located in Pueblo, Colorado.

(f) Equal Employment Opportunity. In connection with the performance of this Agreement, neither Consultant nor its consultants shall discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability, gender orientation or age. Consultant shall endeavor to ensure that its employees are treated during employment without regard to their race, color, religion, sex, national origin, disability, gender orientation or age.

(g) Severability. If any provision of this Agreement, except for Section 2, is determined to be directly contrary to and prohibited by law, 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 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law, then this entire Agreement shall be void.

(h) Conditional. This Agreement is conditioned on Monique Marez (“Marez”), employee of Consultant, first resigning all employment with Client and disclaiming any further interest in said employment. Marez desires no further employment with Client and wishes to make her expertise non-exclusive and available to multiple third parties, conduct business in her own name, sustain her own profits and losses, and otherwise be independent and separate from Client. Through execution of this Agreement, Consultant and Marez hereby disclaim and waive any further interest in the resigned position and its associated rights and obligations. This Agreement shall not take effect until such time as Marez’s resignation from Client becomes effective.

SECTION 13. PERA LIABILITY.

Consultant shall reimburse the Client 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 Client under this Agreement. The Consultant shall fill out the questionnaire attached as *Schedule 2* and submit the completed form to Client as part of the signed Agreement.

[Remainder of page intentionally left blank.]

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

CITY OF PUEBLO,
A MUNICIPAL CORPORATION

ALLISON REA, A COLORADO SOLE PROPRIETOR

By: _____
Naomi Hedden, Director of Purchasing

By: _____

Attest: _____
City Clerk

Title: _____

[S E A L]

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

Director of Finance

APPROVED AS TO FORM:

City Attorney

SCHEDULE 1
STATEMENT OF WORK

SCHEDULE 2
PERA QUESTIONNAIRE



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: December 27, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Bryan Gallagher, Director of Housing and Citizen Services

SUBJECT: A RESOLUTION AWARDING A PROFESSIONAL SERVICE CONTRACT IN THE AMOUNT OF \$50,050 TO NORTHEAST BUCKS AND COMPANY, DOING BUSINESS AS M&L ASSOCIATES, INC., A PENNSYLVANIA CORPORATION, FOR PROJECT NO. 22-097, TECHNICAL AND PROFESSIONAL SERVICES FOR THE DEVELOPMENT AND SUBMITTAL OF THE HOME-ARP ALLOCATION PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, SETTING FORTH \$24,000 IN CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

This Resolution approves a professional service agreement with Northeast Bucks and Company dba M&L Associates, Inc., a Pennsylvania Corporation, to plan, develop, and submit the HOME-ARP Allocation Plan to the U.S. Department of Housing and Urban Development. This activity is a required element of the grant and must be accepted by HUD prior to expending grant funds.

PREVIOUS COUNCIL ACTION:

City Council approved Ordinance No. 10129, accepting the HOME-ARP Grant from the U.S. Department of Housing and Urban Development in the amount of \$3,090,925.00. Ordinance No. 10129, established the 255 fund, budgeted, and appropriated the grant funds into the following accounts:

Fund Use	City HOME-ARP	County HOME-ARPT	Total
Planning	\$ 154,546	\$ -0-	\$ 154,546
Administration	\$ 268,910	\$ 40,182	\$ 309,092
Eligible Activities	\$ 2,285,739	\$ 341,548	\$ 2,627,287
Total	\$ 2,709,195	\$ 381,730	\$ 3,090,925

BACKGROUND:

The City developed its 2021 Annual Action Plan as part of its application for HOME funding. To receive the HOME-ARP funds though, the City must engage in consultation and public participation processes to develop a HOME-ARP allocation plan that meets the requirements established in CPD Notice 21-10 and submit the plan to HUD as a substantial amendment to its Fiscal Year 2021 Annual Action Plan. The HOME-ARP allocation plan must describe how the City intends to distribute HOME-ARP funds, including how it will use these funds to address the needs of HOME-ARP qualifying populations. The HOME-ARP allocation plan must include:

- A summary of the consultation process and results of upfront consultation;
- A summary of comments received through the public participation process and a summary of any comments or recommendations not accepted and the reasons why;
- A description of HOME-ARP qualifying populations within the jurisdiction;
- An assessment of unmet needs of each qualifying population;
- An assessment of gaps in housing and shelter inventory, homeless assistance and services, and homelessness prevention service delivery system;
- A summary of the planned use of HOME-ARP funds for eligible activities based on the unmet needs of the qualifying populations;
- An estimate of the number of housing units for qualifying populations the Participating Jurisdiction will produce or preserve with its HOME-ARP allocation; and
- A description of any preferences for individuals and families in a particular qualifying population or a segment of a qualifying population.

All the above required elements of the HOME-ARP allocation plan shall be part of the FY 2021 annual action plan for purposes of the HOME-ARP program. To implement the Plan, the City is required to follow its Citizen Participation Plan requirements to amend the 2021 Annual Action Plan.

FINANCIAL IMPLICATIONS:

The HOME-ARP Grant allows up to \$154,546.00 of the grant funds to be expended on planning activities in the development of the HOME-ARP allocation plan. Funding for delivery of the project is available in Fund 255.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

The City can choose not to enter into the agreement for professional services for the development of the HOME-ARP Allocation Plan.

RECOMMENDATION:

Approve the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15098

A RESOLUTION AWARDING A PROFESSIONAL SERVICE CONTRACT IN THE AMOUNT OF \$50,050 TO NORTHEAST BUCKS AND COMPANY, DOING BUSINESS AS M&L ASSOCIATES, INC., A PENNSYLVANIA CORPORATION, FOR PROJECT NO. 22-097, TECHNICAL AND PROFESSIONAL SERVICES FOR THE DEVELOPMENT AND SUBMITTAL OF THE HOME-ARP ALLOCATION PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, SETTING FORTH \$24,000 IN CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive proposals for Project No. 22-097, technical and professional services for the development and submission of the HOME-ARP Allocation Plan, have been received and reviewed; and

WHEREAS, competitive proposals for Project No. 22-097, technical and professional services for the development and submission of the HOME-ARP Allocation Plan, have been received and reviewed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council authorizes Project No. 22-097, Technical and professional services for the development and submission of the HOME-ARP plan, to be performed, and the contract for said project is hereby awarded to Northeast Bucks and Company dba M&L Associates, Inc. in the amount of \$50,050.00.

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 the 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 \$24,000.00.

SECTION 4.

Funds for Project 22-097 (including contingencies and additional work) shall be paid from the 255 Fund, HOARP-10, HOME-ARP City Administration account.

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: December 27, 2022

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
DEPUTY CITY CLERK



AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN CITY OF PUEBLO AND
NORTHEAST & BUCKS CO. T/A
MULLIN & LONERGAN ASSOCIATES, INC.

22-RFP-097

CONSULTANT TO PROVIDE TECHNICAL PROFESSIONAL SERVICES
FOR THE DEVELOPMENT AND SUBMISSION OF THE HOME-ARP
ALLOCATION PLAN

AGREEMENT FOR PROFESSIONAL SERVICES BY AND BETWEEN CITY OF PUEBLO AND NORTHEAST & BUCKS CO. T/A MULLIN & LONERGAN ASSOCIATES, INC.

THIS AGREEMENT ("Agreement") made and entered this Tuesday, December 27, 2022 by and between the City of Pueblo, a Municipal Corporation (hereinafter referred to as "City") and Northeast & Bucks Co. T/A Mullin & Lonergan Associates, Inc., a registered Pennsylvania Business Corporation (hereinafter referred to as "Consultant") a professional housing consulting and grant writing firm, for Consultant to render certain professional and related services for Owner in connection with Bid 22-RFP-097 Consultant to Provide Technical Professional Services for the Development and Submission of the HOME-ARP Allocation Plan, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

1. GENERAL

- A. Consultant shall satisfactorily perform technical professional services related to writing the HOME-ARP Allocation Plan and associated policies and procedures to implement the HOME-ARP Plan and the activities included within the Plan, meeting Federal requirements and deadlines, encouraging meaningful public participation and stakeholder outreach in the plan development process, and related consulting or grant writing services for the City to complete the project as outlined in the Scope of Service attached as Schedule 1. Technical professional services performed by the Consultant shall also include all related ancillary services incidental to its work on the Project. In the event this Agreement follows the selection of Consultant by Client pursuant to a Request for Proposals (RFP), all of the requirements of that RFP are incorporated herein by reference, unless any requirement is expressly excluded in Schedule 1.
- B. To the extent Consultant performs any of the Project work through subcontractors or subconsultants, Consultant shall be and remain as fully responsible for the full performance and quality of services performed by such subcontractors or subconsultants as it is for services performed directly by Consultant or Consultant's employees.
- C. To the extent Consultant requires access to private property to perform its services hereunder, Consultant shall be required to make arrangements to obtain such access. However, in the event Client has already secured access for Consultant to any such property through a right of entry agreement, access agreement, letter of consent or other instrument, Consultant shall fully comply with and be subject to the terms and conditions set forth therein. A copy of any such instrument will be provided to Consultant upon request.

2. CONSULTANT'S RESPONSIBILITIES

- A. Consultant shall be responsible for the professional quality, technical accuracy and timely completion of Consultant's work, including that performed by Consultant's subconsultants and subcontractors, and including drawings, reports and other services, irrespective of Client's approval of or acquiescence in same. Consultant shall be responsible, in accordance with applicable law, to Client for all loss or damage to Client caused by Consultant's negligent act or omission; except that Consultant hereby irrevocably waives and excuses Client and Client's 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, whether now existing or hereafter enacted.
- B. Consultant shall be completely responsible for the safety of Consultant's employees in the execution of work under this Agreement and shall provide all necessary safety and protective equipment for said employees.
- C. Consultant acknowledges that time is of the essence with respect to the completion of its services under this Agreement. Consultant represents that Schedule 3 attached hereto is the schedule by which Consultant proposes to accomplish its work, with time periods for which it will commence and complete each major work item. Except to the extent the parties agree to time extensions for delays beyond the control of Consultant, Consultant shall adhere to this schedule and perform its work in a timely manner so as not to delay Client's timetable for achievement of interim tasks and final completion of Project work. Consultant further acknowledges that its schedule has accounted for all reasonably anticipated delays, including those inherent in the availability of tools, supplies, labor and utilities required for the work, the availability of information which must be obtained from any third parties, and all conditions to access to public and private facilities.
- D. Before undertaking any work or incurring any expense which Consultant considers beyond or in addition to the Scope of Work described in Schedule 1 or otherwise contemplated by the terms of this Agreement, Consultant shall advise Client in writing that (i) Consultant considers the work beyond the scope of this Agreement, (ii) the reasons that 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 any out of scope or additional work until authorized in writing by Client. 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 attached hereto.

3. CITY'S RESPONSIBILITIES

- A. Client agrees to advise Consultant regarding Client's Project requirements and to provide all relevant information, surveys, data and previous reports accessible to Client which Consultant may reasonably require.
- B. Client shall designate a Project Representative to whom all communications from Consultant shall be directed and who shall have limited administrative authority on behalf of Client to receive and transmit information and make decisions with respect to the Project. Said representative shall not, however, have authority to bind Client as to matters of governmental policy or fiscal policy, nor to contract for additions or obligations exceeding a value which is the lesser of \$5000 or 5% of the maximum contract price.
- C. Client shall examine all documents presented by Consultant and render decisions pertaining thereto within a reasonable time. The Client's approval of any drawings, specifications, reports, documents or other materials or product furnished hereunder shall not in any way relieve Consultant of responsibility for the professional adequacy of its work.
- D. Client shall perform its obligations and render decisions within a reasonable time under the circumstances presented. Based upon the nature of Client and its requirements, a period of 14 days shall be presumed reasonable for any decision not involving policy decision or significant financial impact, when all information reasonably necessary for Client to responsibly render a decision has been furnished. A period of 46 days shall be presumed reasonable for Client to act with respect to any matter involving policy or significant financial impact. The above periods of presumed reasonableness shall be extended where information reasonably required is not within the custody or control of Client but must be procured from others.

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. The proposed work schedule attached as Schedule 3 may be adjusted by mutual written agreement of all parties.

5. PAYMENT

- A. City will pay to Consultant as full compensation for all services required to be performed by Consultant under this Agreement, as set forth in Schedule 1, an amount not to exceed \$50,050.00. Costs for additional work or work beyond the scope of this Agreement shall not exceed \$24,000.00 and be calculated as set forth in Schedule 2 - "Fee Schedule" and computed in accordance with this Section. The total amount of \$74,050.00 shall be the maximum aggregate compensation. 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.

- B. Consultant shall submit periodic, but not more frequently than monthly, applications for payment, aggregating to not more than the maximum amount set forth above, for actual professional services rendered and reimbursable expenses incurred. Such applications shall be submitted based upon the hourly rates and expense reimbursement provisions set forth in Schedule 2 attached hereto and shall contain appropriate documentation that such services have been performed and expenses incurred. Thereafter, City shall pay Consultant for the amount of the application within 45 days of the date of such application is received, provided that sufficient documentation has been furnished, and further provided that City 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 City's reasonable satisfaction and all required Consultant submittals have been provided.
- C. 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."
- D. No compensation shall be paid to Consultant for services required and expenditures incurred in correcting Consultant's mistakes or negligence.
- E. Compensation for authorized work beyond the scope of this Agreement shall be governed by Section 2.D.

6. TERMINATION

- A. City 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 City 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.
- B. 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 completely 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 City. In no event shall payment to Consultant upon termination exceed the maximum compensation provided for complete performance in Section 5.

- C. 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 Consultants, or to perform work according to the highest professional standards, or to perform work in a manner deemed satisfactory by City'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 City, or (b) payment at the rates specified in Schedule 2 for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.
- D. Consultant's responsibility for its completed work and services shall survive any termination.

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 City and the City 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 City 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 City uses the designs, drawings or specifications provided hereunder for another project independent from Project, without adaptation by Consultant, City 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 City, 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 City for prior review and shall not publish or distribute same unless written approval of the materials is first obtained.

7.3. 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.

7.4. Access to Property Not Under City's Control

Consultant acknowledges that the Project may require access to property not under the control of City at the time of execution of this Agreement. Consultant and Consultant's employees and consultants shall, at Consultant's expense, obtain all additional necessary approvals and clearances required for

access to such property. City 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 City's control may require Consultant to comply with the terms of separate access agreements to be negotiated hereafter with owners of such property.

7.5. 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 City 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 City of Pueblo, Department of Housing and Citizen Services, Attn: Bryan Gallagher, Director, 2631 E. 4th Street, Pueblo, CO 81001; or to the Consultant, Northeast & Bucks Co., T/A Mullin & Lonergan Associates, Inc., Attn: William P. Wasielewski, Secretary/Principal, 800 Vinial Street, Suite B-414, Pittsburgh, PA 15212. 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.

7.6. Entire Agreement

This instrument contains the entire agreement between the City and the Consultant respecting the Project, and any other written or oral agreement or representation respecting the Project or the duties of either the City or the Consultant in relation thereto not expressly set forth in this instrument are null and void. Notwithstanding the foregoing, the terms of [Bid No and Name] 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.

7.7. Subcontracts

- A. Client acknowledges that Consultant is the prime contractor and the only party with whom Client has a contractual relationship under this Agreement. To the extent Consultant performs any Project activities through subconsultants or subcontractors, Consultant shall contractually bind each of its subconsultants and subcontractors by subcontract agreement to all of the terms of this Agreement which are for the benefit of Client, and Client shall be a third-party beneficiary of those subcontract provisions.
- B. Consultant shall indemnify and defend Client from all claims and demands for payment for services provided by subcontractors of Consultant.
- C. Consultant acknowledges that, due to the nature of the services to be provided under this Agreement, the Client has a substantial interest in the personnel and consultants to whom Consultant assigns principal responsibility for services performed under this Agreement. Consequently, Consultant represents that it has selected and intends to employ or assign the key personnel and consultants identified in its proposal submitted to Client prior to execution of

this Agreement to induce Client to enter this Agreement. Consultant shall not change such consultants or key personnel except after giving notice of a proposed change to Client and receiving Client's consent thereto. Consultant shall not assign or reassign Project work to any person to whom Client has reasonable objection.

7.8. 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 City. 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.

7.9. 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 City.

7.10. 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.

7.11. 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.

7.12. 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.

8. DISPUTES

- A. Any dispute or disagreement between Consultant and City arising from or relating to this Agreement or Consultant's services or right to payment hereunder shall be determined and decided by the City'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.
- B. Pending resolution of any dispute or disagreement, or judicial review, Consultant shall proceed diligently with performance of its work under this Agreement.

9. REQUIRED FEDERAL, STATE, AND/OR GRANT PROVISIONS

- A. Consultant understands that City may be funding the Project in whole or part with funds provided by a grant from the U.S. Department of Housing and Urban Development, HOME-ARP funds. Consultant agrees it is subject to and shall comply with all applicable provisions of said Special Funding Contract Requirements as provided in the RFP for this project and for which the contract award has been made and applicable regulations.
- B. All records with respect to any matters covered by this Agreement shall be available for inspection by City and or U.S. Department of Housing and Urban Development 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.
- C. 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.

10. INSURANCE

10.1. Conditions

- 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 below.

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

10.2. Minimum Requirements

- A. Commercial General Liability Insurance. The Consultant 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 Consultant 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 Consultant under the provisions of the agreement, and "Completed Operations and Projects Liability" coverage.
- B. Comprehensive Automobile Liability Insurance. The Consultant 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 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. 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 City.
- D. Professional Liability Insurance with coverage of not less than \$1,000,000 in a form and with a deductible acceptable to City.

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.

12. IMMIGRATION REFORM AND CONTROL ACT OF 1986

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 Agreement have completed and signed Form I-9 verifying their identities and authorization for employment.

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.

14. SCHEDULES

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

- Schedule 1 - "Scope of Services" consisting of 10 pages.
- Schedule 2 - "Fee Schedule" consisting of 1 page.
- Schedule 3 - "Work Schedule" consisting of 1 page.

15. 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 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

NORTHEAST & BUCKS CO. T/A
MULLIN & LONERGAN ASSOCIATES, INC.

By _____
Naomi Hedden, Director of Purchasing

By _____
William P. Wasielewski, Secretary/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 – Work Schedule
Additional Information

SCHEDULE 1

Excerpt from Request for Proposal dated November 8, 2022, Section 3

3. SCOPE OF SERVICE AND PROJECT REQUIREMENTS

3.1. Objective

This project shall include technical professional services related to writing the HOME-ARP Allocation Plan and associated policies and procedures to implement the HOME-ARP Plan and the activities included within the Plan, meeting Federal requirements and deadlines, encouraging meaningful public participation and stakeholder outreach in the plan development process, and related consulting or grant writing services for the City to complete the project as outlined in the Scope of Service and Project Requirements.

The Final HOME-ARP Allocation Plan and the FY 2021 Substantial Amendment must be completed by February 15, 2023, for City management to consider for approval by March 6, 2023. The approved HOME-ARP Allocation Plan and FY 2021 Substantial Amendment shall be submitted to HUD by March 20, 2023.

3.2. Federal Funding Requirements

This project may be funded in whole or in part by a grant from the U.S. Department of Housing and Urban Development, HOME-ARP funds. Bidders shall comply with all applicable Federal, State, and local standards, orders, and regulations. The City has attached Appendix C - Special Funding Contract Requirements and Appendix D - Bidder's Certifications Form for Proposer's reference. Signature of compliance is required for the Certification Regarding Byrd Anti-Lobbying (Appendix C) and the Bidder's Certifications Form (Appendix D). Note: The forms must be approved by City and any other funding agencies prior to award.

Proposers must have an active SAM.gov registration with no exclusions to be considered for award. Please visit <https://www.sam.gov> for more information.

3.3. General Requirements for the HOME-ARP Allocation Plan

The City developed its FY 2021 Annual Action Plan as part of its application for HOME funding. To receive the HOME-ARP funds, the City through its Consultant must engage in consultation and public participation processes to develop a HOME-ARP Allocation Plan that meets the requirements established in CPD Notice 21-10 and submit the plan to HUD as a substantial amendment to its Fiscal Year 2021 Annual Action Plan. The HOME-ARP Allocation Plan must describe how the City intends to distribute HOME-ARP funds, including how it will use these funds to address the needs of HOME-ARP qualifying populations. The HOME-ARP allocation plan must include:

- A summary of the consultation process and results of upfront consultation.
- A summary of comments received through the public participation process and a summary of any comments or recommendations not accepted and the reasons why.
- A description of HOME-ARP qualifying populations within the jurisdiction.
- An assessment of unmet needs of each qualifying population.

- An assessment of gaps in housing and shelter inventory, homeless assistance and services, and homelessness prevention service delivery system.
- A summary of the planned use of HOME-ARP funds for eligible activities based on the unmet needs of the qualifying populations.
- An estimate of the number of housing units for qualifying populations the PJ will produce or preserve with its HOME-ARP allocation; and
- A description of any preferences for individuals and families in a particular qualifying population or a segment of a qualifying population.
- A direct link between the priority needs of the homeless in the community, the supportive services needed to assist, and community goals/objectives and priority needs.
- Clear direction for implementation in the accompanying Substantial Amendment to the 2021 Annual Action Plan.

All the above required elements of the HOME-ARP Allocation Plan shall be part of the FY 2021 Annual Action Plan for purposes of the HOME-ARP program. To implement the HOME-ARP Allocation Plan, the City is required to follow its Citizen Participation Plan requirements to amend the FY 2021 Annual Action Plan.

Consultation:

Before developing the HOME-ARP Allocation Plan, the Consultant will confer with agencies and service providers whose clientele include the HOME-ARP qualifying populations to identify unmet needs and gaps in housing or service delivery systems. At a minimum, these agencies and service providers shall include the following:

- CoC(s) serving the jurisdiction's geographic area.
- Homeless service providers
- Domestic violence service providers
- Veteran's groups
- The Housing Authority of the City of Pueblo (PHA)
- Public agencies that address the needs of qualifying populations
- Public or private organizations that address civil rights and fair housing
- Public or private organizations that address the needs of persons with disabilities.
- State or local health and child welfare agencies
- Various City and County Departments
- Board of County Commissioners, Mayor, and City Council

In addition, the Consultant should use collaborative outreach to determine the HOME-ARP eligible activities currently taking place within its jurisdiction and potential collaborations for administering HOME-ARP. This consultation will provide a basis for the City's strategy for distributing HOME-ARP funds for eligible activities to best meet the needs of qualifying populations. In its plan, the Consultant must describe the consultation process used, list the organizations consulted, and summarize the feedback received from these entities.

Public Participation:

The Consultant shall provide for and encourage citizen participation in the development of the HOME-ARP allocation plan. Before submitting the HOME-ARP allocation plan to HUD, the city, through its consultant, must provide residents with reasonable notice and an opportunity to comment on the proposed HOME-ARP allocation plan of no less than 15 calendar days. The consultant must follow the City's adopted requirements for "reasonable notice and an opportunity to comment" for plan amendments identified in the City's citizen participation plan. In addition, the consultant must hold at least one public hearing during the development of the HOME-ARP allocation plan prior to submitting the plan to HUD.

The consultant shall provide the following information to the City and ultimately to the public:

- The amount of HOME-ARP funds the City will receive (\$3,000,925).
- The range of activities the City will undertake.
- The City must consider any comments or views of residents received in writing, or orally at a public hearing, when preparing the HOME-ARP allocation plan. In the plan, the consultant must describe the public participation process, including any efforts made to broaden public participation. The Consultant must also include a summary of comments and recommendations received through the public participation process and any comments or recommendations not accepted and the reasons why.
- Throughout the HOME-ARP allocation plan public participation process, the city and the consultant must follow applicable fair housing and civil rights requirements and procedures for effective communication, accessibility and reasonable accommodations for persons with disabilities and providing meaningful access to participation by limited English proficient (LEP) residents that are in its current citizen participation plan as required by 24 CFR 91.105 and 91.115.

Common issues identified by HUD leading to the rejection of a HOME-ARP Allocation Plan are:

- Failure to follow applicable fair housing and civil rights requirements and procedures for effective communication, accessibility and reasonable accommodations for persons with disabilities or to provide meaningful access to participation by limited English proficient (LEP) residents that are in the PJ's current citizen participation plan. For example, failure to provide a means for citizens to request an accommodation or translation services for a public meeting.
- Failure to describe the efforts to broaden public participation.

3.4. Detailed Requirements for the HOME-ARP Allocation Plan

The HOME-ARP Allocation Plan must describe the distribution of HOME-ARP funds and the process for soliciting applications and/or selecting eligible projects. The plan must also identify any preferences being established for eligible activities or projects.

Needs Assessment and Gaps Analysis: The Consultant must evaluate the size and demographic composition of qualifying populations within its boundaries and assess the unmet needs of those populations. In addition, identify any gaps within its current shelter and housing inventory as well as the service delivery system. The Consultant should use current data, including point in time count, housing inventory count, or other data available through the CoC, and consultations with service providers to quantify the individuals and families in the qualifying populations and their need for additional housing, shelter, or services. The Consultant should identify and consider the current resources available to assist qualifying populations, including congregate and non-congregate shelter units, supportive services, TBRA, and affordable and permanent supportive rental housing. The Consultant will consider the housing and service needs of qualifying populations, including but not limited to:

- Sheltered and unsheltered homeless populations.
- Those currently housed populations at risk of homelessness.
- Other families requiring services or housing assistance to prevent homelessness.
- Those at greatest risk of housing instability or in unstable housing situations.

The consultant will include data in its HOME-ARP allocation plan that describes the qualifying populations along with a narrative description:

- Identifying the characteristics of housing associated with instability and an increased risk of homelessness of “other populations” as established in Section IV.A.4.2.ii.G. of CPD Notice 21-10.
- Identifying the priority needs for qualifying populations; and,
- Explaining the level of need and gaps in its shelter and housing inventory and service delivery systems.

The consultant shall take note in HUD’s guidance “Common Issues in HOME-ARP Allocation Plans” identifying common errors in the Needs and Gaps Analysis portion of the Plan:

- Failure to describe all four of the qualifying populations (QP) in the needs assessment section of the plan. The Notice requires that PJs evaluate the size and demographic composition of each of the QP within its boundaries and assess the unmet needs of those populations. Please note that data alone is not sufficient to meet this requirement, however it should be used to support the PJ’s analysis.
 - In particular, failure to include an assessment of the following populations or to describe their unmet needs:

-
- Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, as defined by HUD.
 - Other Populations where providing supportive services or assistance under section 212(a) of NAHA (42 U.S.C. 12742(a)) would prevent the family's homelessness or would serve those at greatest risk of housing instability. HUD defines these populations as individuals and households who do not qualify under any of the other QP
 - Failure to describe both the housing and service needs of all four of the QPs. For example, the PJ describes the need for rental housing and TBRA but neglects to discuss service and non-congregate shelter needs.

HOME-ARP Activities: The HOME-ARP Allocation Plan must describe how the City will distribute HOME-ARP funds in accordance with its priority needs. The plan must describe the method for soliciting applications for funding and/or selecting developers, service providers, subrecipients and/or contractors and whether the City will administer eligible activities directly. The plan will identify any portion of its HOME-ARP administrative funds provided to a subrecipient or contractor prior to HUD's acceptance of the HOME-ARP allocation plan. The plan must identify the subrecipient or contractor and describe its role and responsibilities in administering the city's HOME-ARP program.

The Consultant will indicate in the HOME-ARP Allocation Plan the amount of HOME-ARP funding that is planned for each eligible HOME-ARP activity type, including administrative and planning activities. The Consultants narrative will demonstrate that planned funding for nonprofit organization operating assistance, as described in Section VI.F of CDP Notice 21-10, nonprofit capacity building, and administrative costs is within HOME-ARP limits. The Consultant shall also include a narrative describing the characteristics of the community's shelter and housing inventory, the existing service delivery system, and the needs identified by the gap analysis. The narrative shall provide the rationale for activities included in the plan.

HOME-ARP Production Housing Goals: Through the HOME-ARP allocation plan, the Consultant will estimate the number of affordable rental housing units for qualifying populations that the city will produce or support with the HOME-ARP allocation. The plan shall include a narrative about the specific affordable rental housing production goals that the city hopes to achieve and describe how it will address the identified priority needs.

Preferences: The Consultant will outline in the HOME-ARP Allocation Plan whether the City intends to give preference to one or more qualifying populations or a subpopulation within one or more qualifying populations for eligible activities or project.

The Consultant shall detail how the use of a preference or method of prioritization, if any, will address the unmet need or gap in benefits and services received by individuals and families in the qualifying population or category of qualifying population, consistent with the needs assessment and gap analysis. The Consultant shall describe how the City will still address the unmet needs or gaps in benefits and services of the other qualifying populations that are not included in a preference through the use of HOME- ARP funds.

Preferences cannot violate any applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in 24 CFR 5.105(a).

The Consultant, Plan, and the City must comply with all applicable nondiscrimination and equal opportunity laws and requirements listed in 24 CFR 5.105(a) and any other applicable fair housing and civil rights laws and requirements when establishing preferences or methods of prioritization.

HOME-ARP Refinancing Guidelines: The plan shall also identify if the City intends to use HOME-ARP funds to refinance existing debt secured by multifamily rental housing that is being rehabilitated with HOME-ARP funds, and state the City's refinancing guidelines in accordance with 24 CFR 92.206(b)(2). The guidelines must describe the conditions under which the city will refinance existing debt for a HOME-ARP rental project. At a minimum, the guidelines must address the areas identified in Section :

- Establish a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing to demonstrate that rehabilitation of HOME-ARP rental housing is the primary eligible activity.
- Establish a review checklist of management practices to demonstrate that disinvestment in the property has not occurred; that the long-term needs of the project can be met; and that the feasibility of serving qualified populations for the minimum compliance period can be demonstrated.
- State whether the new investment is being made to maintain current affordable units, create additional affordable units, or both.
- Specify whether the required compliance period is the minimum 15 years or longer.
- Clearly identify that HOME-ARP funds cannot be used to refinance multifamily loans made or insured by any federal program, including CDBG.

Substantial Amendments to the HOME-ARP Allocation Plan: The Consultant shall be available to make future substantial amendments to the HOME-ARP allocation plan on an hourly basis, if needed, for changes in the method of distributing funds; to carry out an activity not previously described in the plan; or, to change the purpose, scope, location, or beneficiaries of an activity, including new preferences not previously described in the plan. The Consultant, through the city, shall make the proposed substantial amendment public and provide for a 30-day public comment period prior to submission. Upon completion of the public comment period, the Consultant will submit substantial amendments to HUD in accordance with the process for submitting the HOME-ARP allocation plan.

Certifications and SF-424: The Consultant will assist the City in submission of the required certifications including the following:

- Affirmatively Further Fair Housing, Uniform Relocation Assistance and Real Property Acquisition Policies Act and Anti-displacement and Relocation Assistance Plan, Anti-Lobbying, Authority of Jurisdiction, Section 3; and,

-
- HOME-ARP specific certification that a PJ will only use HOME-ARP funds consistent with ARP and the HOME-ARP Notice for eligible activities and eligible costs.
 - Submission of the SF-424, SF-424B, and SF-424D with the HOME-ARP allocation plan.

3.5. [Submission and Review Process](#)

HOME-ARP Submission and the eCon Planning Suite: Upon completion of the HOME- ARP Allocation Plan, the City must submit the plan in IDIS as an amendment to its Fiscal Year (FY) 2021 annual action plan.

HUD Review of the HOME-ARP Allocation Plan: The City will submit its HOME-ARP allocation plan to HUD for review in accordance with 24 CFR 91.500, as revised by CPD Notice 21-10. The HOME-ARP allocation plan is received by HUD when the SF-424 is submitted electronically by uploading the plan in IDIS. HUD will review the HOME- ARP allocation plan to determine that it is substantially complete, and consistent with the purposes of ARP.

3.6. [Project Tasks](#)

The individual or company selected shall provide technical and professional services related to writing the HOME-ARP Allocation Plan incorporating information from staff, stakeholder, citizens. Professional planning and writing services to be performed under the proposal include but are not limited to:

- Preparation, organization, writing and submission of professionally detailed and comprehensive plans in accordance with guidelines as specified by HUD;
- Synthesize all necessary information to write all sections of the HOME-ARP Allocation Plan including but not limited to: executive summary, background program information, consultation process, needs and gaps assessment, market analysis, and strategic plan.
- Consultation with public and private agencies as outlined in 24 CFR §91.100, including those that provide assisted housing, homeless service providers and agencies, health services and social services; State or local health and child welfare agencies; adjacent units of local government, including planning agencies; public housing authorities; and jurisdictions receiving ESG and CoC funds within the eligible metropolitan statistical area;
- Conduct at a minimum (2) public participation meetings to expand and enhance the public's input on the development of the plan. The meetings shall be recorded and transcribed. The meetings shall be hybrid type meetings being both in person and streamed on a web meeting platform that has the ability to subtitle the conversation. Spanish and English translation to be made available. American Sign Language shall be available, if requested. All meetings shall be conducted in accordance with the Americans with Disabilities Act.
- Conducting a Needs Assessment for all four qualifying populations of the HOME-ARP Program as outlined in CPD Notice 21-10 and other relevant information or updates published by HUD, in conjunction with information obtained through consultation process. The Needs Assessment will provide a clear picture of the City's needs related to homelessness assistance and

supportive services. The Needs Assessment will form the basis for the HOME-ARP Allocation Plan and the programs and projects to be administered as outlined in §91.215 and for any policy issues.

- Preparing and presenting the Draft HOME-ARP Allocation Plan with applicable graphics, maps, community information handouts and photographs to the public for comment and to (1) the Board of County Commissioners, (2) the Mayor, and (3) City Council for their comment and approval. The documents should be thorough, complete, contain a format and structure that meets Federal regulations as stated in the eCon Planning Suites and that are ultimately approved by HUD;
- Summarizing recommendations of the HOME-ARP Allocation Plan into a reader-friendly Executive Summary using graphs, tables, pictures and charts;
- Preparation of the Final HOME-ARP Allocation Plan.
- Complete substantial amendment in IDIS for the City's 2021 Annual Action Plan to include the HOME-ARP Plan.

Development of general program policies and procedures shall be included in the firms base pricing. Policies specific to a programs or activites, not yet selected, shall be based on an hourly rate, not to exceed price.

Policies and Procedures to be developed for administration and operation of the HOME-ARP Program are estimated to be:

- **General policies and procedures:**
 - Record Retention Policy
 - Conflict of Interest Policy
 - Confidentiality Policy and Procedures
 - HOME-ARP Anti-Displacement/Uniform Relocation Policy and Procedures
 - Eligibility policy
 - Preference policy
 - Program geographic policy, defining service coverage and portability
 - Develop Property standards and property maintenance standards
- **Activity or project specific policies and procedures:**
 - HOME-ARP Anti-Displacement/Uniform Relocation Policy and Procedures specific to and activity or project
 - Eligibility policy, activity and/or project specific

-
- Eligibility project/program specific checklist
 - Preference policy, project/activity specific
 - Activity specific operations policy and procedures with action item checklist
 - Referral policy and procedures, project/activity specific
 - Develop tenant termination policy and procedures (activity)
 - Develop client termination policy and procedures (activity)
 - Develop project/activity waitlist policy and procedures
 - **Additional tasks to be priced on an hourly basis, not to exceed:**
 - Establish project/activity utility allowance
 - Environmental assessment for acquisition and rehabilitation of program housing – multi-family
 - Environmental assessment for acquisition and rehabilitation of program housing – redevelopment to housing
 - Environmental assessment for acquisition and rehabilitation of program housing – single-family residence 5+
 - Categorically excluded environmental assessment for acquisition and rehabilitation of program housing – (1) single-family home.
 - Project specific underwriting and analysis to include potential operating deficit.
 - Develop subrecipient agreement template
 - Develop developer agreement template

3.7. [Summary of Deliverables](#)

- Executive Summary: The Executive Summary serves as an introduction and summarizes the key points of the plan. It should be written so that all readers will understand it without having to read the rest of the plan. For the HOME-ARP Plan, a good Executive Summary will describe the process of developing the plan, the key findings of the Needs Assessment as the basis for the priorities selected, and how the proposed goals and objectives will address those priorities. This section is comprised of:
 - Introduction
 - Summary of Objectives and Outcomes
 - Evaluation of existing housing and services infrastructure as it pertains to qualifying populations.

- Summary of citizen participation and the outreach consultation process
- Summary of public comments.
- Summary of comments not accepted, homeless needs assessment data collection, including associated charts and narratives.
- Draft HOME-ARP Plan: Consultant to provide City and County with a USB flash drive containing the plan and all associated materials that incorporates the background information and other report contents, plus three (3) unbound, colored original copies of the Plan.
- Final Draft HOME-ARP Plan: Consultant to provide City and County with a USB flash drive containing the plan and all associated materials that incorporates the background information and other report contents, plus three (3) unbound, colored original copies of the Plan.

SCHEDULE 2

Excerpt from Proposer's Submittal dated December 6, 2022, Page 22

Fee Schedule

M&L proposes to prepare and submit the HOME-ARP Allocation Plan to HUD as part of a Substantial Amendment for a lump sum amount of \$50,050 as shown on the chart below.

Phase 1. Consultation	Estimated Hours to Complete	Lump Sum Fee
Task 1. Stakeholder Consultation	80	\$15,500
Task 2. Public Participation	12	\$2,100
Task 3. Summary of Consultation Process	8	\$1,400
Phase 2. Allocation Plan		
Task 1. Needs Assessment and Gaps Analysis	96	\$16,800
Task 2. HOME-ARP Activities	48	\$8,400
Task 3. HOME-ARP Production Goals	8	\$1,400
Task 4. Preferences	12	\$2,100
Task 5. HOME-ARP Refinancing Guidelines	8	\$1,400
Task 6. SF-424 Forms and Certifications	2	\$350
Task 7. Substantial Amendment to 2021 AAP	4	\$700
Total Budget	286	\$50,050

Additionally, M&L will provide on-going technical services to the City, once the plan is approved by HUD, on an hourly rate basis. For these services, M&L would suggest a not to exceed budget amount of \$60,000 for 2023. M&L's current hourly rates are shown below:

M&L Staff Position/Title	Hourly Rate
Principal	\$225
Director of Community Development	\$200
Professional Staff	\$160
Administrative Assistant	\$60

In addition, M&L shall be permitted to charge, portal to portal, for mileage based on the government's standard mileage rate per mile and actual costs for tolls, airfare, lodging and other travel/subsistence expenses. Hourly rates charged include travel time, portal to portal and will be billed monthly for actual hours worked.

SCHEDULE 3

Work Schedule

Excerpt from Proposer's Submittal dated December 6, 2022, Page 23

Time Frame

M&L's proposed schedule covers a four-month period (this assumes a contract notice of award occurs in December of 2022) with HUD submission of the Allocation Plan slated to occur before March 31, 2023. M&L agrees to meet the proposed schedule as outlined in the RFP which includes the submission of a draft HOME ARP allocation plan by February 15, 2023 to the City which would allow for approval of the plan by the City in early March.

Once the plan is submitted and approved by HUD, M&L will provide on-going professional technical assistance through December 31, 2023.

A more detailed weekly project schedule will be provided upon contracting.



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: December 27, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Megan Moore Pueblo Food Service Manager

SUBJECT: A RESOLUTION EXTENDING THE TERM OF THE AMERICAN RESCUE PLAN ACT PUEBLO COMMUNITY GARDENS PROJECT FROM DECEMBER 31, 2022 UNTIL DECEMBER 31, 2024

SUMMARY:

This Resolution extends the term of the American Rescue Plan Act ("ARPA") Pueblo Community Gardens Project by two (2) years, from December 31, 2022 until December 31, 2024.

PREVIOUS COUNCIL ACTION:

By Resolution No. 14708, on September 13, 2021, City Council approved the expenditure of ARPA funds in the amount of Twenty Thousand Dollars (\$20,000) from Project No. CI2113 – American Rescue Plan Act, to the City of Pueblo's Pueblo Food Project, for purposes of administering the Pueblo Community Gardens Project ("Project"). This Project has succeeded in mitigating hunger and food insecurity in our community.

BACKGROUND:

The Project was a success in 2022 and the expenditure of the remaining funds of approximately \$8,408.09 will enable the Project to continue in 2023 and perhaps 2024.

FINANCIAL IMPLICATIONS:

None. This Resolution does not authorize the expenditure of additional ARPA funds.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

City Council could decide not to approve the additional time for completion of the Pueblo Community Gardens Project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15099

A RESOLUTION EXTENDING THE TERM OF THE
AMERICAN RESCUE PLAN ACT PUEBLO COMMUNITY
GARDENS PROJECT FROM DECEMBER 31, 2022 UNTIL
DECEMBER 31, 2024

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The term of the Project shall be and hereby is enlarged and extended by two (2)
years from December 31, 2022 until December 31, 2024.

SECTION 2.

Resolution No. 14708, dated September 13, 2021, is hereby ratified and shall
remain in full force and effect, except as amended by this Resolution.

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: December 27, 2022

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
DEPUTY CITY CLERK



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: December 27, 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 AMENDING RESOLUTION NO. 14854 TO AMEND THE LIST OF IDENTIFIED GOVERNMENTAL SERVICE PROJECTS AND FUNDING ALLOCATION BETWEEN SAID PROJECTS

SUMMARY:

This Resolution will amend the list of Governmental Services Projects identified in Resolution No. 14854.

PREVIOUS COUNCIL ACTION:

On April 11, 2022, City Council authorized 15 Governmental Services Projects under Resolution No. 14854 in an amount not to exceed \$6,580,000 from Project CI2113.

BACKGROUND:

Since the original resolution was passed in April of 2022, City staff have initiated procurement of the equipment, services, and projects identified. The initial costs identified for each project were based on internal estimates and many of these estimates have since been refined based on solid bid data from vendors. Costs for some of the identified projects were lower than anticipated while some were higher. Based on the bids received and updated cost estimates since the original Resolution was passed, the Public Works Department is also requesting to reallocate the funds originally proposed for purchasing a street sweeper toward the procurement of mowing and spraying equipment to assist with roadway vegetation management. A summary of the proposed changes to the original project list is below:

	Department	Project	Original Amount	Updated Amount	Notes
1	Information Technology	Software Storage	\$270,000	\$270,000	No Change
2	Public Works	Gateway Arches (Northern Ave, Union Ave, E. 8th Street)	\$750,000	\$750,000	No Change

3	Parks & Recreation	El Centro Renovations	\$1,000,000	\$1,000,000	No Change
4	Parks & Recreation	Mowers	\$223,110.42	\$223,110.42	No Change
5	Parks & Recreation	Greenhouse Renovations	\$1,500,000	\$1,500,000	No Change
6	Planning	Unified Code	\$225,000	\$225,000	No Change
7	Public Works	2 Dump Trucks with snow plows	\$260,000	\$270,000	Total cost of dump trucks with snow plows, spreaders and other required safety equipment is anticipated to be \$10,000 higher than the original estimate.
8	Public Works	Skid Steer with Bucket and Jackhammer Attachments	\$150,000	\$78,000	Total cost of skid steer and attachments is anticipated to be approximately \$78,000, approximately \$72,000 less than the original estimate.
9	Public Works	Two equipment trailers	\$40,000	\$23,500	Total cost of the equipment trailers is anticipated to be \$23,500, approximately \$16,500 less than the original estimate.
10	Public Works	Electric Sweeper (4-wheel)	\$260,000	\$0	Bids for electric sweepers came in at over \$600,000. Given the high cost of purchase, Public Works is seeking to delete this project from the approved list and reallocate the \$260,000 to other equipment purchases. (See item 16 below).
11	Mayor's Office	Financial Empowerment Center	\$50,000	\$50,000	No change
12	Mayor's Office	Priority Based Budgeting	\$30,000	\$30,000	No change
13	Police	RMS/CAD Software	\$1,200,000	\$1,200,000	No change
14	Human Resources	Comprehensive Compensation Study	\$125,000	\$125,000	No change
15	Fire	Fire Pumper	\$708,537	\$708,537	No change
16	Parks & Recreation	Trash Truck	\$155,000	\$155,000	No change

17	Public Works	Mowing, Spraying, and Vegetation Management Equipment	\$0	\$238,500	This is a new project created to replace aging mowing, spraying, and vegetation management equipment used to maintain public roadways within the City. The cost of purchase will be covered within the budget that was approved by the original authorizing Resolution and subsequent amendments through savings realized on other Public Works projects as well as reallocation of the funds that were originally designated for the purchase of an electric street sweeper.
18	Public Works	Neighborhood Trail Connectivity Planning Study	\$0	\$100,000	This is a new project to identify opportunities and alternatives for improving multimodal transportation connections between trails, designated bicycle lanes/routes, and other key neighborhood access points within the city. The cost of procuring the professional services required for the study will be covered within the budget that was approved by the original authorizing Resolution and subsequent amendments through savings realized on other Public Works projects as well as reallocation of the funds that were originally designated for the purchase of an electric street sweeper.

FINANCIAL IMPLICATIONS:

The total amount of funding authorized under the original resolution and subsequent amendments remains unchanged. The list of identified projects and the allocation of funds between individual projects will be updated.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

Failure to approve this Resolution will not allow for the reallocation of funding and prevent the execution of certain projects identified in the original resolution.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15100

A RESOLUTION AMENDING RESOLUTION NO. 14854 TO
AMEND THE LIST OF IDENTIFIED GOVERNMENTAL SERVICE
PROJECTS AND FUNDING ALLOCATION BETWEEN SAID
PROJECTS

WHEREAS, City Council passed Resolution No. 14854 on April 11, 2022, authorizing payment in an amount not to exceed \$6,580,000.00 from Project No. CI2113 for fifteen Governmental Services Projects; and

WHEREAS, City Council passed Resolution No. 14999 on September 12, 2022 increasing the approved funding for the purchase of a pumper truck for the Fire Department from \$500,000.00 to \$708,537.00 and adding a new project to purchase a trash truck for the Parks and Recreation Department in the amount of \$155,000; and

WHEREAS, City Council passed Resolution No. 15009 September 26, 2022 increasing the approved funding for purchase of mowers for the Parks and Recreation Department from \$220,000.00 to \$223,110.42; and

WHEREAS, estimated costs for some of the equipment procurement projects have been revised since the original Resolution was passed based on vendor quotes, bids, and other current cost data; and

WHEREAS, based on the aforementioned updated project budget estimates, reallocation of funds between certain projects and the addition of two new projects to the approved project list is contemplated under this Resolution; and

WHEREAS, the total budget of \$6,946,647.42 that was approved for all projects under Resolution No. 14854 and subsequent amendments will remain unchanged; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Section 1 of Resolution No. 14854 is amended to read as follows:

	Department	Project	Amount
1	Information Technology	Software Storage	\$270,000.00
2	Public Works	Gateway Arches (Northern Ave., Union Ave., E. 8th Street)	\$750,000.00
3	Parks & Recreation	El Centro Renovations	\$1,000,000.00
4	Parks & Recreation	Mowers	\$223,110.42

5	Parks & Recreation	Greenhouse Renovations	\$1,500,000.00
6	Planning	Unified Code	\$225,000.00
7	Public Works	Two Dump Trucks with Snowplows and Spreaders	\$270,000.00
8	Public Works	Skid Steer with Bucket and Jackhammer Attachment	\$78,000.00
9	Public Works	Two Equipment Trailers	\$23,500.00
10	Mayor's Office	Financial Empowerment Center	\$50,000.00
11	Mayor's Office	Priority Based Budgeting	\$30,000.00
12	Police	RMS/CAD Software	\$1,200,000.00
13	Human Resources	Comprehensive Compensation Study	\$125,000.00
14	Fire	Fire Pumper	\$708,537.00
15	Parks & Recreation	Trash Truck	\$155,000.00
16	Public Works	Mowing and Spraying Equipment	\$238,500.00
17	Public Works	Neighborhood Trail Connectivity Planning Study	\$100,000.00
	Total		\$6,946,647.42

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with this Resolution which are necessary or desirable to implement the transactions described therein.

INTRODUCED: December 27, 2022

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
DEPUTY CITY CLERK



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: December 27, 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 TO AMEND RESOLUTION NO. 14931 TO CORRECT THE CONTRACT AWARD AMOUNT FOR PROJECT NO. 22-055E EMERGENCY REPAIR PROJECT FOR 522 AND 530 SKYWAY

SUMMARY:

This Resolution will amend the resolution authorizing Contract 22-055E to be awarded in a total amount of \$80,336.30 to update the total award amount to \$80,940.00. The amendment also adjusts the available contingencies set aside for the project from \$10,000.00 to \$9,396.30.

PREVIOUS COUNCIL ACTION:

City Council approved Resolution No. 14931 on July 11, 2022, awarding a construction contract to Parker Excavating, LLC for Project No. 22-055E Emergency Repair Project for 522 and 530 Skyway in the amount of \$80,336.30, plus \$10,000.00 for contingencies and additional work.

BACKGROUND:

When Resolution No. 14931 was originally drafted for presentation to City Council, the contract award amount had been incorrectly entered as \$80,336.30 and a total of \$10,000.00 of contingency funding was set aside for the project. Parker Excavating, LLC's bid for the project was actually \$80,940.00 and the contract was signed for that amount. The \$603.70 discrepancy between the contractor's actual bid amount and the approved award amount was subsequently caught when the contractor submitted its invoice for payment. This proposed Resolution will amend Resolution No. 14931 to correct the contract award amount (from \$80,336.30 to \$80,940.00) and the remaining contingency balance (from \$10,000.00 to \$9,396.30). No contract amendment is required and additional funding will not need to be budgeted and appropriated to the project.

FINANCIAL IMPLICATIONS:

Funding (including contingencies) in the amount of \$90,336.30 will be paid from account CIAN20 Facilities Maintenance.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this resolution will preclude the City from making payment to the contractor for the contracted award amount.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15101

A RESOLUTION TO AMEND RESOLUTION NO. 14931 TO CORRECT THE CONTRACT AWARD AMOUNT FOR PROJECT NO. 22-055E EMERGENCY REPAIR PROJECT FOR 522 AND 530 SKYWAY

WHEREAS, City Council approved Resolution No. 14931 on July 11, 2022, ratifying the award of an emergency construction contract to Parker Excavating, Inc., for Project No. 22-055E - Emergency Repair Project for 522 and 530 Skyway (At the Pueblo Memorial Airport) - in the amount of \$80,336.30 and allocating \$10,000.00 for contingencies and additional work; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Section 1 of Resolution No. 14931 is hereby amended to read as follows:

SECTION 1.

City Council ratifies and approves the contract for the repair of sanitary sewer lines with Parker Excavating, Inc., Project No. 22-05E Emergency Repair Project for 522 and 530 Skyway (at the Pueblo Memorial Airport) awarded to said bidder in the amount of \$80,940.00.

SECTION 2.

Section 3 of Resolution No. 14931 is hereby amended to read as follows:

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 \$9,396.30

SECTION 3.

Approval of this Resolution is contingent upon the final passage of the Ordinance transferring \$300,000.00 from Public Works Department Operating Funds into Project Account No. CIAN20, which was approved during its first presentation to City Council on December 12, 2022.

SECTION 4.

The officers 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 5.

This Resolution is subject to and conditioned upon City Council passage and approval of the Ordinance transferring \$300,000.00 from Public Works Department Operating Funds into Project Account No. CIAN20, which was approved during its first presentation to City Council on December 12, 2022 ("Project Ordinance"). As such, this Resolution shall only become effective upon the date of final action by the Mayor and City Council approving this Resolution and the Project Ordinance.

INTRODUCED: December 27, 2022

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
DEPUTY CITY CLERK



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: December 27, 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

SUBJECT: A RESOLUTION APPROVING AND ACCEPTING THE CANVASS AND ABSTRACT OF VOTES CAST AT THE SPECIAL MUNICIPAL ELECTION HELD ON NOVEMBER 8, 2022 AS PART OF A COORDINATED ELECTION WITH PUEBLO COUNTY

SUMMARY:

This Resolution accepts and approves the Abstract of Votes cast at the Special Municipal Election dated November 8, 2022 as prepared by the City Clerk.

PREVIOUS COUNCIL ACTION:

Pursuant to Section 5-1-119(1) of the Municipal Code, an Abstract of Votes is prepared by the City Clerk and Approved by the Board of Elections following each General or Special Municipal Election.

BACKGROUND:

Pursuant to Section 5-1-115 of the Pueblo Municipal Code, on Tuesday, November 24, 2020, the City Clerk met with the Pueblo County Clerk and Recorder as part of the 2020 Non-Partisan Special Election Board of Canvassers of the Election Returns. Following the Canvassing, Gilbert Ortiz, Pueblo County Clerk and Recorder, issued the Official Abstract of Votes signed by each member of the Non-Partisan Canvassing Board, which will be submitted to the Secretary of State.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

The Board of Elections has reviewed the Abstract of Votes as prepared by the City Clerk and has approved the Abstract by Board Resolution.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

None.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Election Board Res 2022-4 Canvass
2. Abstract of Votes

RESOLUTION NO 15102

A RESOLUTION APPROVING AND ACCEPTING THE CANVASS AND ABSTRACT OF VOTES CAST AT THE SPECIAL MUNICIPAL ELECTION HELD ON NOVEMBER 8, 2022 AS PART OF A COORDINATED ELECTION WITH PUEBLO COUNTY

WHEREAS, the Canvassing for the Special Municipal Election held on November 8, 2022 as part of a Coordinated Election with Pueblo County, has been completed; and

WHEREAS, the Board of Elections has unanimously passed and approved a Board Resolution certifying the votes and declaring the results of voting at said Special Municipal Election as official; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The Resolution of the Board of Elections certifying the votes and declaring the results at said Special Municipal Election as official, a copy of which is attached hereto, is hereby approved; and the designation of results therein contained are hereby accepted and adopted.

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 immediately upon passage and approval.

INTRODUCED: December 27, 2022

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
DEPUTY CITY CLERK

Resolution No. 2022-4

A RESOLUTION CERTIFYING THE VOTES AND DECLARING THE RESULTS OF VOTING AT THE SPECIAL MUNICIPAL ELECTION HELD ON NOVEMBER 8, 2022 AS PART OF A COORDINATED ELECTION (OFFICIAL SURVEY OF RETURNS)

WHEREAS, Pursuant to Section 5-1-115 of the Pueblo Municipal Code; the Canvassing Board of Elections met on November 30, 2022 as part of the Canvassing Board for the General Municipal Election, conducted as a Coordinated Election in the City and County of Pueblo, and;

WHEREAS, the Board of Elections proceeded to Canvass the votes cast at said General Municipal Election and make an abstract thereof; NOW THEREFORE, BE IT RESOLVED BY THE PUEBLO BOARD OF ELECTIONS that:

SECTION 1:

The following votes are unanimously certified:

BALLOT QUESTION NO. 2A

Expand Local Broadband Services

YES	27,411	73.83%
NO	9,716	26.17%

SECTION 2:

Question 2A: The greatest number of votes cast was "YES" therefore, **QUESTION 2A PASSED**

SECTION 3:

The following votes are unanimously certified:

BALLOT QUESTION NO. 2B

Extension of the Public Safety Sales Tax for 5 Years

YES	28,252	74.53%
NO	9,655	25.47%

SECTION 4:

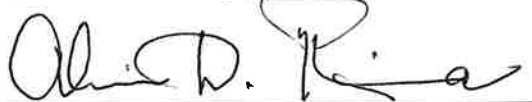
Question 2A: The greatest number of votes cast was "YES" therefore, **QUESTION 2A PASSED**

SECTION 5:

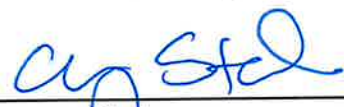
The statements from the abstract of votes prepared by the City Clerk is hereby approved and each member of the Board of Elections shall affix his or her signature thereto, certifying same to be correct and shall endorse and subscribe on such statements their certification of determination required by Section 5-1-119(1) of the Pueblo Municipal Code, as amended.

Adopted this 30th day of November 2022.

BOARD OF ELECTIONS:


Alvin Rivera, Member


Sharon Sullenberger, Member


Marisa Stoller, Chair and City Clerk

ATTEST:


CITY ATTORNEY

GENERAL CITY ELECTION

TOTAL VOTES FOR
DISTRICT 1, 2, 3, 4
BALLOTS CAST 39,614

NOVEMBER 8, 2022

QUESTION NO. 2A - EXPAND LOCAL BROADBAND SERVICES		QUESTION NO. 2B - EXTENSION OF THE PUBLIC SAFETY SALES TAX FOR 5 YEARS	
WITHOUT INCREASING TAXES, SHALL THE CITY OF PUEBLO HAVE THE AUTHORITY TO PROVIDE, OR TO FACILITATE OR PARTNER OR COORDINATE WITH SERVICE PROVIDERS FOR THE PROVISION OF, "ADVANCED (HIGH-SPEED INTERNET) SERVICE," "CABLE TELEVISION SERVICE," AND "TELECOMMUNICATION SERVICE," EITHER DIRECTLY, INDIRECTLY, OR BY CONTRACT, TO RESIDENTIAL, COMMERCIAL, NONPROFIT, GOVERNMENT OR OTHER SUBSCRIBERS AND TO ACQUIRE, OPERATE AND MAINTAIN ANY FACILITY FOR THE PURPOSE OF PROVIDING SUCH SERVICES, RESTORING LOCAL AUTHORITY AND FLEXIBILITY THAT WAS REMOVED BY TITLE 29, ARTICLE 27, PART 1 OF THE COLORADO REVISED STATUTES?		WITHOUT RAISING ADDITIONAL TAXES, SHALL THE EXISTING ONE-FIFTH PERCENT (.2%) CITY SALES AND USE TAX RATE FOR POLICE PERSONNEL AND OPERATING NEEDS BE EXTENDED FOR A FIVE-YEAR PERIOD FROM ITS CURRENT EXPIRATION OF DECEMBER 31, 2022 THROUGH DECEMBER 31, 2027 BY ADOPTING ORDINANCE NO. 10260, THE REVENUES THEREFROM TO BE SPENT TOGETHER WITH ALL INVESTMENT INCOME THEREON, INCLUDING INTEREST AND PENALTIES WITH RESPECT THEREOF, AS A VOTER-APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY PURSUANT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW, PROVIDING FOR THE DEPOSIT OF SUCH REVENUES INTO THE EXISTING "SALES AND USE TAX POLICE FUND" TO BE SPENT SOLELY FOR POLICE PERSONNEL AND OPERATING NEEDS, AND FINDING AND DETERMINING THAT THE EXPENDITURE OF SUCH REVENUES FOR POLICE PERSONNEL AND OPERATING NEEDS IS A PUBLIC PURPOSE AND MUNICIPAL FUNCTION?	
FOR	AGAINST	YES	NO
27,411	9,716	28,252	9,655
TOTAL			

WE, THE UNDERSIGNED OFFICIALS OF THE CITY OF PUEBLO, COLORADO, CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT CANVASS AND ABSTRACT OF THE VOTECAST AT THE SPECIAL MUNICIPAL ELECTION HELD ON NOVEMBER 8, 2022 AS PART OF THE COORDINATED ELECTION.


ELECTION BOARD MEMBER


ELECTION BOARD MEMBER


ELECTION BOARD MEMBER

ATTEST

CITY ATTORNEY

GENERAL CITY ELECTION

TOTAL VOTES FOR
DISTRICT 1, 2, 3, 4
BALLOTS CAST 39,614

NOVEMBER 8, 2022

QUESTION NO. 2A - EXPAND LOCAL BROADBAND SERVICES		QUESTION NO. 2B - EXTENSION OF THE PUBLIC SAFETY SALES TAX FOR 5 YEARS	
WITHOUT INCREASING TAXES, SHALL THE CITY OF PUEBLO HAVE THE AUTHORITY TO PROVIDE, OR TO FACILITATE OR PARTNER OR COORDINATE WITH SERVICE PROVIDERS FOR THE PROVISION OF, "ADVANCED (HIGH-SPEED INTERNET) SERVICE," "CABLE TELEVISION SERVICE," AND "TELECOMMUNICATION SERVICE," EITHER DIRECTLY, INDIRECTLY, OR BY CONTRACT, TO RESIDENTIAL, COMMERCIAL, NONPROFIT, GOVERNMENT OR OTHER SUBSCRIBERS AND TO ACQUIRE, OPERATE AND MAINTAIN ANY FACILITY FOR THE PURPOSE OF PROVIDING SUCH SERVICES, RESTORING LOCAL AUTHORITY AND FLEXIBILITY THAT WAS REMOVED BY TITLE 29, ARTICLE 27, PART 1 OF THE COLORADO REVISED STATUTES?		WITHOUT RAISING ADDITIONAL TAXES, SHALL THE EXISTING ONE-FIFTH PERCENT (2%) CITY SALES AND USE TAX RATE FOR POLICE PERSONNEL AND OPERATING NEEDS BE EXTENDED FOR A FIVE-YEAR PERIOD FROM ITS CURRENT EXPIRATION OF DECEMBER 31, 2022 THROUGH DECEMBER 31, 2027 BY ADOPTING ORDINANCE NO. 10260, THE REVENUES THEREFROM TO BE SPENT TOGETHER WITH ALL INVESTMENT INCOME THEREON, INCLUDING INTEREST AND PENALTIES WITH RESPECT THEREOF, AS A VOTER-APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY PURSUANT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW, PROVIDING FOR THE DEPOSIT OF SUCH REVENUES INTO THE EXISTING "SALES AND USE TAX POLICE FUND" TO BE SPENT SOLELY FOR POLICE PERSONNEL AND OPERATING NEEDS, AND FINDING AND DETERMINING THAT THE EXPENDITURE OF SUCH REVENUES FOR POLICE PERSONNEL AND OPERATING NEEDS IS A PUBLIC PURPOSE AND MUNICIPAL FUNCTION?	
FOR	AGAINST	YES	NO
27,411	9,716	28,252	9,655
TOTAL			

WE, THE UNDERSIGNED OFFICIALS OF THE CITY OF PUEBLO, COLORADO, CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT CANVASS AND ABSTRACT OF THE VOTECAST AT THE SPECIAL MUNICIPAL ELECTION HELD ON NOVEMBER 8, 2022 AS PART OF THE COORDINATED ELECTION.


ELECTION BOARD MEMBER


ELECTION BOARD MEMBER


ELECTION BOARD MEMBER

ATTEST

CITY ATTORNEY



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: December 27, 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 RATIFYING PACOG'S JOINT APPOINTMENT OF ROYAL TRIVETT TO THE REGIONAL BUILDING COMMISSION'S ELECTRICAL BOARD OF APPEALS

SUMMARY:

This resolution ratifies the joint City-County appointment of a general contractor to the Regional Building Commission's Electrical Board of Appeals to complete a three-year term expiring July 1, 2023.

PREVIOUS COUNCIL ACTION:

Joint City-County appointments to the Pueblo Regional Building Commission are made on an annual basis selecting individuals to serve three-year terms expiring on July 1st of each year. Resolutions to ratify the joint appointments are passed by each entity.

BACKGROUND:

There is a vacancy on the Pueblo Regional Building – Electrical Board of Appeals for a contractor expiring July 1, 2023. Following the PACOG meeting on December 8, 2022, the BOCC and City Council members reviewed the application and appointed Royal Trivett to the position.

FINANCIAL IMPLICATIONS:

This is a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

City Council in agreement with the County Commissioners could remove the Resolution from the Agenda, request that the recruitment process be extended in order to receive additional applications for consideration.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Electrical BOA - Trivett

RESOLUTION NO. 15103

A RESOLUTION RATIFYING PACOG'S JOINT
APPOINTMENT OF ROYAL TRIVETT TO THE REGIONAL
BUILDING COMMISSION'S ELECTRICAL BOARD OF
APPEALS

WHEREAS, this Resolution ratifies the joint appointment made following the PACOG meeting on December 8, 2022, by City-County Representatives who were present; NOW, THEREFORE;

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Royal Trivett is hereby appointed to the Pueblo Regional Building – Electrical Board of Appeals to complete a three-year term expiring July 1, 2023 as a contractor.

SECTION 2.

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

SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED: December 27, 2022

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
DEPUTY CITY CLERK

From: noreply@civicplus.com
To: [CityAdmin](#)
Subject: [External] Online Form Submittal: BOARDS & COMMISSIONS Application
Date: Wednesday, November 30, 2022 11:30:21 AM

External email. Please use caution.

BOARDS & COMMISSIONS Application

BOARDS & COMMISSIONS Application for Appointment

(Section Break)

DATE	11/30/2022
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BOARD OR COMMISSION	Electrical Board of Appeals
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Contact Information

FIRST NAME	royal
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LAST NAME	trivett
-----------	---------

HOME ADDRESS	15 san marino ct
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CITY	Pueblo
------	--------

STATE	Colorado (CO)
-------	---------------

ZIP	81005
-----	-------

OFFICE ADDRESS	820 w. 2nd st.
----------------	----------------

CITY	Pueblo
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STATE	Colorado
-------	----------

ZIP	81003
-----	-------

DAYTIME PHONE	7195460442
---------------	------------

E-MAIL ADDRESS	roy@royalelectrical.com
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ARE YOU CURRENTLY EMPLOYED WITH	NO
---------------------------------------	----

THE CITY OF
PUEBLO?

ARE YOU A
RESIDENT OF THE
CITY OF PUEBLO?

YES

OCCUPATION (or if
RETIRED, your
previous occupation)

Owner of Royal Electrical Services inc.

Questionnaire

Please complete the following general information.

1. Please list your
areas of
accomplishments that
you feel could assist
the mission of this
Board or Commission.

Have been in the electrical field for 45 years.
Owner of Royal Electrical Services for 30 years
Master Electrician for 32years

2. Why are you
interested in being
appointed to this Board
or Commission?

To help improve our electrical trade.

3. What Goals would
you like to see this
Board or Commission
accomplish?

To help interpret code so it makes sense to all contractors.

4. List any other items
that might be useful in
consideration for your
appointment to this
Board or Commission.

Field not completed.

(Section Break)

Upload résumé,
references and/or other
pertinent information

Field not completed.

Email not displaying correctly? [View it in your browser.](#)



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: December 27, 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 ALAN WARD TO THE PUEBLO ENERGY ADVISORY COMMISSION

SUMMARY:

This Resolution confirms the appointment by the Mayor of a member to complete a four-year term expiring June 30, 2023.

PREVIOUS COUNCIL ACTION:

On March 8, 2021, by Ordinance No. 9902, City Council amended Chapter 5 of Title II of the Pueblo Municipal Code to reconstitute the Pueblo Energy Advisory Commission. City Council has made appointments to the Pueblo Energy Advisory Commission selecting individuals to serve terms which expire during a 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 resignation of George Samaras, there is one vacancy on this Commission. Following an announcement on the City's webpage and social media seeking volunteers to serve on this committee. Mayor Gradisar reviewed the application and appointed Mr. Ward.

FINANCIAL IMPLICATIONS:

This 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. Energy - Ward Packet

RESOLUTION NO. 15104

A RESOLUTION CONFIRMING THE APPOINTMENT BY
THE MAYOR OF ALAN WARD TO THE PUEBLO ENERGY
ADVISORY COMMISSION

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Alan Ward to the Pueblo Energy Advisory Commission to complete a four-year term expiring June 30, 2023; NOW, THEREFORE;

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that
SECTION 1.

Alan Ward is hereby appointed to the Pueblo Energy Advisory Commission to complete a four-year term expiring June 30, 2023.

SECTION 2.

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

SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED: December 27, 2022

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
DEPUTY CITY CLERK

From: noreply@civicplus.com
To: [CityAdmin](#)
Subject: [External] Online Form Submittal: BOARDS & COMMISSIONS Application
Date: Monday, November 21, 2022 1:20:06 PM

External email. Please use caution.

BOARDS & COMMISSIONS Application

BOARDS & COMMISSIONS Application for Appointment

(Section Break)

DATE	11/21/2022
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BOARD OR COMMISSION	Energy Advisory Commission
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Contact Information

FIRST NAME	Alan
------------	------

LAST NAME	Ward
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HOME ADDRESS	3017 8TH AVE
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CITY	PUEBLO
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STATE	CO
-------	----

ZIP	81008
-----	-------

OFFICE ADDRESS	319 W 4th St
----------------	--------------

CITY	Pueblo
------	--------

STATE	CO
-------	----

ZIP	81003
-----	-------

DAYTIME PHONE	7195840235
---------------	------------

E-MAIL ADDRESS	award@pueblowater.org
----------------	-----------------------

ARE YOU CURRENTLY EMPLOYED WITH	NO
---------------------------------------	----

THE CITY OF
PUEBLO?

ARE YOU A
RESIDENT OF THE
CITY OF PUEBLO?

YES

OCCUPATION (or if
RETIRED, your
previous occupation)

Water Resources Division Manager for the Board of Water
Works

Questionnaire

Please complete the following general information.

1. Please list your
areas of
accomplishments that
you feel could assist
the mission of this
Board or Commission.

I was born and raised in Pueblo and have 25 years of experience working for the Board of Water Works. During that time I've developed an understanding and appreciation for the water/energy nexus. Service on multiple ditch company boards has helped me learn how to effectively collaborate with a small groups of diverse people in setting policy to achieve shared goals.

2. Why are you
interested in being
appointed to this Board
or Commission?

I sincerely believe that human caused climate change will create great disruption in my lifetime and even more so for future generations. Reducing the carbon emissions from the energy sector in Pueblo is one small step that can be taken to mitigate climate change impacts.

3. What Goals would
you like to see this
Board or Commission
accomplish?

Identify and implement impactful and practical ways to reduce the carbon footprint of Pueblo. Collaborate with other communities - just reducing carbon emissions in Pueblo will not make a meaningful difference unless we are joined by many other communities.

4. List any other items
that might be useful in
consideration for your
appointment to this
Board or Commission.

I have a reasonably flexible schedule and should be able to regularly attend meetings and other functions of the commission.

(Section Break)

Upload résumé,
references and/or other
pertinent information

[Alan Ward Resume 20221121.pdf](#)

Email not displaying correctly? [View it in your browser.](#)

Alan Ward

ADDRESS

3017 8th Ave, Pueblo, Colorado 81008

Work Phone: 719.584.0235

Cell Phone: 719.250.9548

Email: award@pueblowater.org

WATER RELATED EXPERIENCE

- Groundwater Tech; Colorado Division of Water Resources, Division 2 (1994-1997)
 - Water Resources Specialist; Pueblo Water (1997-2007)
 - Water Resources Administrator; Pueblo Water (2007-2011)
 - Water Resources Division Manager; Pueblo Water (2011-present)
 - Board of Directors; Arkansas Valley Ditch Association (1998-present)
 - Board of Directors; Bessemer Irrigating Ditch Co (2010-present)
 - Board of Directors, Vice-President; Twin Lakes Reservoir & Canal Co (2011-present)
 - Board of Directors, Chair; Busk-Ivanhoe Water System Authority (2011-present)
 - Flow Management Committee, Chairman; Arkansas River Flow Management Program (2004-present)
 - SWSI Water Conservation and Efficiency Technical Roundtable (2005-2006)
 - Advisor Team to Colorado Commissioner to the Upper Colorado River Commission (2019-present)
 - Demand Management Agricultural Impacts Workgroup (2019-present)
-

AFFILIATIONS

- Colorado Water Congress (1998-present)
 - Front Range Water Council (2011-present)
-

**EDUCATION AND
TRAINING**

- High School Diploma; Pueblo South High School (1990)
 - Various College Courses; Western State College, University of Southern Colorado, Pueblo Community College, Community College of the Air Force (1990-1995)
 - Water Leaders Course; Colorado Foundation for Water Education [now Water Education Colorado] (2006)
 - Wide variety of water related classes and seminars on a continuing basis
-



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: December 27, 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 ROBYN MAESTAS, ANTHONY PERKO, AND JAN SCHRANER TO THE HISTORIC PRESERVATION COMMISSION

SUMMARY:

This Resolution confirms the appointment by the Mayor of members to the Historic Preservation Commission to serve four-year terms expiring January 1, 2023.

PREVIOUS COUNCIL ACTION:

City Council has made appointments to the Historic Preservation Commission selecting individuals to serve terms which expire during a 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 term expirations of Gregory Howell, Anthony Perko, and Susan McCarthy, there are three appointments available to serve a four-year term on the Historic Preservation Commission. Following an announcement in the Pueblo Chieftain and on the City's webpage and social media seeking volunteers to serve on this committee, applications from two new applicants and one wishing to reapply were received and reviewed by Mayor Gradisar.

FINANCIAL IMPLICATIONS:

This a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Remove from agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. HPC - Maestas
2. HPC - Perko Packet
3. HPC - Schraner Packet

RESOLUTION NO. 15105

A RESOLUTION CONFIRMING THE APPOINTMENT BY
THE MAYOR OF ROBYN MAESTAS, ANTHONY PERKO,
AND JAN SCHRANER TO THE HISTORIC
PRESERVATION COMMISSION

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Robyn Maestas, Anthony Perko, and Jan Schraner to the Historic Preservation Commission to serve four-year terms expiring January 1, 2027; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Robyn Maestas, Anthony Perko, and Jan Schraner are hereby appointed to the Historic Preservation Commission to serve four-year terms expiring January 1, 2027.

SECTION 2.

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

SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED: December 27, 2022

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
DEPUTY CITY CLERK

From: noreply@civicplus.com
To: [CityAdmin](#)
Subject: [External] Online Form Submittal: BOARDS & COMMISSIONS Application
Date: Wednesday, November 23, 2022 9:17:42 AM

External email. Please use caution.

BOARDS & COMMISSIONS Application

BOARDS & COMMISSIONS Application for Appointment

(Section Break)

DATE	11/23/2022
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BOARD OR COMMISSION	Historic Preservation Committee
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Contact Information

FIRST NAME	Robyn
------------	-------

LAST NAME	Maestas
-----------	---------

HOME ADDRESS	606 S Prairie Dr
--------------	------------------

CITY	Pueblo
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STATE	CO
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ZIP	81005
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OFFICE ADDRESS	606 S Prairie Dr
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CITY	Pueblo
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STATE	CO
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ZIP	81005
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DAYTIME PHONE	7192506286
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E-MAIL ADDRESS	robyn.maestas@state.co.us
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ARE YOU CURRENTLY EMPLOYED WITH	NO
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THE CITY OF
PUEBLO?

ARE YOU A
RESIDENT OF THE
CITY OF PUEBLO?

YES

OCCUPATION (or if
RETIRED, your
previous occupation)

Child and School Oral Health Coordinator

Questionnaire

Please complete the following general information.

1. Please list your
areas of
accomplishments that
you feel could assist
the mission of this
Board or Commission.

Avid oral public health advocate. Native to Colorado.

2. Why are you
interested in being
appointed to this Board
or Commission?

Fascinated by historical preservation of Pueblo and continuation to keep Pueblo historic and culturally rich.

3. What Goals would
you like to see this
Board or Commission
accomplish?

Continue to elevate Pueblo's pride and history by being able to preserve buildings while we still have them.

4. List any other items
that might be useful in
consideration for your
appointment to this
Board or Commission.

Great people person. Concerned with elevating Pueblo to its utmost.

(Section Break)

Upload résumé,
references and/or other
pertinent information

Field not completed.

Email not displaying correctly? [View it in your browser.](#)

From: noreply@civicplus.com
To: [CityAdmin](#)
Subject: [External] Online Form Submittal: BOARDS & COMMISSIONS Application
Date: Sunday, December 4, 2022 4:23:33 PM

External email. Please use caution.

BOARDS & COMMISSIONS Application

BOARDS & COMMISSIONS Application for Appointment

(Section Break)

DATE	12/4/2022
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BOARD OR COMMISSION	Historic Preservation Committee
------------------------	---------------------------------

Contact Information

FIRST NAME	Anthony
------------	---------

LAST NAME	Perko
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HOME ADDRESS	2202 Cedar Street
--------------	-------------------

CITY	Pueblo
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STATE	CO
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ZIP	81004
-----	-------

OFFICE ADDRESS	113 Broadway Avenue
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CITY	Pueblo
------	--------

STATE	CO
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ZIP	81004
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DAYTIME PHONE	7196215822
---------------	------------

E-MAIL ADDRESS	anthony@perkolawllc.com
----------------	-------------------------

ARE YOU CURRENTLY EMPLOYED WITH	NO
---------------------------------------	----

THE CITY OF
PUEBLO?

ARE YOU A
RESIDENT OF THE
CITY OF PUEBLO?

YES

OCCUPATION (or if
RETIRED, your
previous occupation)

Attorney

Questionnaire

Please complete the following general information.

1. Please list your
areas of
accomplishments that
you feel could assist
the mission of this
Board or Commission.

I am a practicing private attorney within the City of Pueblo. Among those individuals and entities that I have previously represented are several municipalities and other governmental entities. These include the Town of Ordway, CO, the Town of Olney Springs, CO, Crowley County (in limited capacity), Pueblo School District 70, and the PCCLD. My experience with these entities has provided me a thorough knowledge of parliamentary procedure as well as the Colorado Open Meetings Law, the Colorado Open Records Act, and other substantive law that could be of use on the Pueblo Historical Preservation Commission.

In addition, I have recently been appointed as a member of the Board of Directors of Pueblo School District No. 60.

2. Why are you
interested in being
appointed to this Board
or Commission?

In my undergraduate career I was a History major and have a very strong interest in local history. Most especially, I have long been interested in appropriate preservation of historic structures in the City. As a simple example, my former apartment at 403B W. 11th Street (Fitch Terrace Apartments) is on both the local registry as well as the National Registry of Historic Places. I purposefully selected this building to live in due to its local history.

Currently serving as the secretary of the HPC Board has been a pleasure and an honor and I would like to continue the work that the Board has undertaken in recent years. I have had tangential connection to the Keating School project and would like to be involved or assist in its rehabilitation.

3. What Goals would
you like to see this
Board or Commission
accomplish?

It would be my desire to see the Pueblo Historical Preservation Commission be proactive in ensuring the preservation of many or most local edifices for future generations' enjoyment.

While I can appreciate that in some instances this may not be possible or practicable, it would be my hope to ensure to the maximum extent possible the proper and safe preservation of

local history.

I would like to see the HPC and the City itself explore a joint collaborative board with the County government, to the extent that there is appetite for same in the case of the latter. This potential board would have jurisdiction over those historical sites not currently under the HPC's City-exclusive territory.

4. List any other items that might be useful in consideration for your appointment to this Board or Commission.

In the past I have had significant contact with the Pueblo City Council and City Attorney's office (for unrelated affairs) as well as the Bessemer Historical Society and the Pueblo Historical Society.

I believe these contacts can be used in a positive and productive manner in my time on the Commission. I understand and accept the time commitment involved in serving on the Commission.

(Section Break)

Upload résumé, references and/or other pertinent information

[Resume 2022.docx](#)

Email not displaying correctly? [View it in your browser.](#)

Anthony P. Perko, Esq.

113 Broadway Avenue, Pueblo, CO 81004

anthony@perkolawllc.com

(719) 621.5822

WORK EXPERIENCE

Perko Law, LLC, Pueblo, CO

May 2020-Present

Partner/ Owner/ Principal

- Continuation of civil practice following dissolution of prior law firm
- Maintained retention of client base following transition (100% retention rate)
- Increased focus on wills and probate work along with governmental contracts

Gradisar, Trechter, Ripperger & Roth, Pueblo, CO

August 2013-April 2020

Associate Attorney

- General civil practice, with focus on governmental contractual work, employment law, wills and probate, trusts and estates, and marijuana licensure
- General counsel for Town of Ordway, CO, Town of Olney Springs, CO, Town of Crowley, CO, Pueblo County School District No. 70, Pueblo City-County Library District, Crowley County, CO, Rocky Ford Rural Fire Protection District, Youth and Family Academy Charter School

Gradisar, Trechter, Ripperger & Roth, Pueblo, CO

June 2012-August 2012

Legal Intern

- Conducted legal research for ongoing personal injury litigation
- Assisted with and attended truancy court proceedings
- Individually composed legal briefs and motions for firm attorneys

Colorado 7th Judicial District, Gunnison, CO

May 2011–August 2011

Judicial Intern for the Honorable Chief Judge J. Steven Patrick

- Conducted legal research for pending water litigation
- Composed memoranda concerning water statutory interpretation and questions of law

EDUCATION

University of Denver, Sturm College of Law, Denver, CO

Juris Doctor

Graduated May 2013

- Recipient, University of Denver Academic Scholarship (1/2 tuition merit-based award)
- Natural Resource & Environmental Law Group; Colorado Bar Association – Water Law Section; College Democrats Board Member
- University of Denver Water Law Review Staff Member; University of Denver Water Law Review Senior Staff Editor

University of Colorado, Boulder, CO

Bachelor of Arts, History

Graduated December 2008

- GPA, 3.407 (Major GPA: 3.57)
- CoPIRG (Colorado Public Interest Research Group)
- Worked full-time throughout 6 semesters of school to fund education
- Graduated one semester early while continuously employed

PERSONAL

Current Secretary, City of Pueblo Historical Preservation Commission

Member in good standing, Pueblo Historical Society and Colorado Archaeological Society

From: noreply@civicplus.com
To: [CityAdmin](#)
Subject: [External] Online Form Submittal: BOARDS & COMMISSIONS Application
Date: Friday, November 18, 2022 9:39:35 AM

External email. Please use caution.

BOARDS & COMMISSIONS Application

BOARDS & COMMISSIONS Application for Appointment

(Section Break)

DATE	11/18/2022
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BOARD OR COMMISSION	Historic Preservation Committee
------------------------	---------------------------------

Contact Information

FIRST NAME	Jan
------------	-----

LAST NAME	Schraner
-----------	----------

HOME ADDRESS	3320 W 18th Street
--------------	--------------------

CITY	Pueblo
------	--------

STATE	CO
-------	----

ZIP	81003
-----	-------

OFFICE ADDRESS	3320 W 18th Street
----------------	--------------------

CITY	Pueblo
------	--------

STATE	CO
-------	----

ZIP	81003
-----	-------

DAYTIME PHONE	7192898315
---------------	------------

E-MAIL ADDRESS	janetrose81004@gmail.com
----------------	--------------------------

ARE YOU CURRENTLY EMPLOYED WITH	NO
---------------------------------------	----

THE CITY OF
PUEBLO?

ARE YOU A
RESIDENT OF THE
CITY OF PUEBLO?

YES

OCCUPATION (or if
RETIRED, your
previous occupation)

Retired Paralegal with The Walt Disney Company, Burbank,
California

Questionnaire

Please complete the following general information.

1. Please list your
areas of
accomplishments that
you feel could assist
the mission of this
Board or Commission.

I believe my main accomplishment was moving back to my
hometown of Pueblo after living in Los Angeles for 45+ years. I
decided that Pueblo was the BEST location to retire and, after
2.5 years of returning, I have not regretted that decision.

2. Why are you
interested in being
appointed to this Board
or Commission?

Pueblo has a rich history, not only of its peoples but its
architecture. The efforts put in to our landmarks by our Pueblo
ancestors is a true gift to cherish and preserve.

3. What Goals would
you like to see this
Board or Commission
accomplish?

I would hope this Commission recognizes a balance between
moving forward while appreciating those landmarks left behind. It
is our duty to preserve history, including the rich architectural
landmarks that abound in this City. I want my grandchildren to
come to Pueblo and be amazed at its architectural wonders, as
well as what nature provides. To ignore Pueblo's landmarks and
not preserve them would be a travesty.

4. List any other items
that might be useful in
consideration for your
appointment to this
Board or Commission.

Having worked in the Corporate Legal Department of the Walt
Disney Company, I realize there are many nuances to rules and
regulations. I believe I have the ability to look at a problem and
find the best solution for all concerned in a fair and equitable
manner.

(Section Break)

Upload résumé,
references and/or other
pertinent information

[JSchraner work history resume \(past\).doc](#)

Email not displaying correctly? [View it in your browser.](#)

Jan Schraner
10147 Horse Haven Street
Sun Valley, California 91352
Home: (818) 768-6432
Office: (818) 560-8985

Experience:

10/86 - Present **THE WALT DISNEY COMPANY**, Burbank, California.

Corporate Legal-Content Protection: Reporting to Vice President and Executive Counsel. Primary administrative duties include calendaring, travel and meeting arrangements, seminar planning, presentation production and legal time reporting. Also responsible for word processing, redlining legal documents, faxes, filing, telephones, ordering of department supplies and all other general office duties. Current Notary Public commission.

Feature Animation: Reported to Vice President-Music/Business and Legal Affairs. Responsible for word processing, redlining and finalizing highly proprietary and confidential contracts relating to composers, performers, musicians, consultants as well as writers, voice actors, shooting locations, on-sight lectures, etc., for all aspects of Feature Animation production. Handling of general correspondence, memos, faxes, filing, telephones, maintaining calendar, travel, expense reports, and other general office duties. Current Notary Public commission.

Corporate Legal-Consumer Products: Reported to Senior Counsel and paralegals in Trademark Department. Responsible for monitoring deadlines and preparing foreign trademark oppositions as well as managing heavy phones, incoming correspondence and faxes, trademark search opinions, title reports, general correspondence, faxes and filing, expense reports, maintaining calendar.

Corporate Tax: Reported to Vice President, Director, Senior Manager, Managers and various other department personnel as well as providing backup to Vice President-Tax. Duties included heavy telephones, word processing of various correspondence, prepared Excel spreadsheets, presentations and diagrams, maintained appointment calendar, faxing, filing, copying of extensive tax information, updating tax library. Provided support to other department secretaries.

Corporate Legal-Real Estate and Acquisitions: Reported to Jeff Smith, (currently General Counsel, Walt Disney World), then-Vice President-Counsel and Senior Counsel. Responsible for word processing of legal documents such as highly-confidential contracts, employment agreements, real estate transactions, settlements, non-disclosure agreements, etc., as well as general correspondence, memos and faxes. Maintained appointment calendar, prepared foreign and domestic expense reports. Established and maintained extensive filing system; prepared preliminary drafts of employment contracts, affidavits and contract briefs.

Provided primary secretarial backup for Senior Executive Vice President-Chief of Corporate Operations and General Counsel.

4/01 -4/03 **Lawrence Schiller, KLS Communications, Woodland Hills, CA (part-time)**
Transcriber responsible for word processing of taped interviews, phone conversations and/or notes, etc., in preparation for potential books and screenplays for television miniseries and pilots. Provided word processing from hard copy of first draft of book manuscript.

6/86 - 10/86 FULWIDER, PATTON, REIBER, LEE & UTECHT, Los Angeles, California.
Legal secretary/word processor in trademark/patent law practice. Responsible for general correspondence, legal documents, filings for patent applications and preparations for litigation matters.

4/84 - 6/86 GANG, TYRE, RAMER AND BROWN, INC., Hollywood, California.
Legal secretary/word processor in entertainment law practice, reporting to music partner. Responsible for general correspondence, legal documents, record contracts/contract riders, some music clearances. Extensive administrative duties.

2/80 - 4/84 GREYHOUND EXHIBITGROUP LOS ANGELES, Los Angeles, California.
Secretary to President of company involved in design and manufacture of tradeshow exhibits; secretary to large sale staff, four project managers and shop foreman. Responsible for word processing of correspondence, contracts and design proposals; prepared final invoices; managed front office, screened prospective secretarial candidates, trained and supervised secretarial staff, receptionist/switchboard.

Skills: Proficient in Microsoft Office 2007 Word, Excel, PowerPoint, Outlook, SAP, fast notes, taped transcription

Education: **UNIVERSITY OF SOUTHERN COLORADO**, Pueblo, Colorado.
Double-major in English and Psychology

References: Available upon request.



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: December 27, 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 JIMMY DUFFNER TO THE COMMUNITY COMMISSION ON HOUSING AND HOMELESSNESS

SUMMARY:

This Resolution appoints a member to serve a three-year term expiring on December 31, 2025 on the Community Commission on Housing and Homelessness (CCHH).

PREVIOUS COUNCIL ACTION:

City Council has made appointments to the Community Commission on Housing and Homelessness (CCHH) selecting individuals to serve terms which expire at the end of 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 term expirations of Jimmy Duffner and Susan Anderson, there are two spots available on the CCHH.

FINANCIAL IMPLICATIONS:

This 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. CCHH - Duffner

RESOLUTION NO. 15106

A RESOLUTION CONFIRMING THE APPOINTMENT BY
THE MAYOR OF JIMMY DUFFNER TO THE COMMUNITY
COMMISSION ON HOUSING AND HOMELESSNESS

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Jimmy Duffner to serve on the Community Commission on Housing and Homelessness (CCHH); NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The reappointment by the Mayor of Jimmy Duffner to the Community Commission on Housing and Homelessness to serve a three-year term expiring December 31, 2025 shall be and is hereby confirmed by the City Council:

SECTION 2.

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 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED: December 27, 2022

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
DEPUTY CITY CLERK



Application for Appointment

BOARD OR COMMISSION Community Commission on Housing and Homelessness_____

DATE 11-23-2022_____DEADLINE TO SUBMIT: 11-22-2022_____

Please type or clearly print the following information.

NAME:Jimmy Duffner_____

HOME ADDRESS: 213 East Evans #B Pueblo Colorado 81004_____

OFFICE ADDRESS:Same_____

DAYTIME PHONE: 1 719 553 6121_____

E-MAIL ADDRESS: jimmyduffner@gmail.com_____

ARE YOU CURRENTLY EMPLOYED WITH THE CITY OF PUEBLO? no_____

OCCUPATION (or if RETIRED, your previous occupation): Construction retired on
SSI_____

Please type or clearly print the following questions.

Feel free to use additional paper, but limit responses to one page per question.

1. Please list your areas of accomplishments that you feel could assist the mission of this Board or Commission.

As a person with chronic homelessness in my past and recovering from heroin meth alcohol and tobacco addictions I am uniquely qualified to work with the unhoused and those suffering with the disabling conditions that go with being unhoused.

2. Why are you interested in being appointed to this Board or Commission?

I am passionate about this work and am driven by Matthew 25 for whatever you have done for the least of these you have done for me.

3. What Goals would you like to see this Board or Commission accomplish?

Safe camping and parking sites as well as low income and affordable housing for those in need
bringing dignity to our brothers and sisters suffering with a multitude of issues experiencing
being unhoused

4. List any other items that might be useful in consideration for your appointment to this Board or Commission.

I have been volunteering with Crazy Faith and Coco Robinson on Sundays and have worked
closely with the Pueblo Rescue mission in the past and still Volunteer with the Right Place
providing access to Art though my Kind Magnolia Arts Guild

5. List any other Civil or Community Commissions or Boards that you currently serve on.

COC governing board member I am signed up to help Teah Miller and Health Solutions with the
point in time count I have been participating with Aleis and the Commission

MAIL OR SUBMIT TO:
Mayor's Office
One City Hall Place
Pueblo, CO 81003

Revised 5.2021



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: December 27, 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 CONFIRMING THE APPOINTMENT OF BARBARA HUBER TO THE POSITION OF DEPUTY MAYOR

SUMMARY:

The Mayor has appointed Barbara Huber to the position of Deputy Mayor and requests confirmation of said appointment by the City Council. Such appointment is based on Ms. Huber's education, training, experience and fitness for the position.

PREVIOUS COUNCIL ACTION:

City Council confirmed the appointment of Fire Chief Barbara Huber to the position of Deputy Mayor on April 26, 2021 following the retirement of Chief Troy Davenport. City Council confirmed the second appointment of Ms. Huber on February 14, 2022 to serve through December 31, 2022.

BACKGROUND:

Mayor Gradisar has appointed Barbara Huber, who currently serves as the City's Fire Chief, to serve as Deputy Mayor for 2023. Ms. Huber has served as Fire Chief since August 2019. She has worked with the Pueblo Fire Department for just over 25 years. She has a Bachelor of Science from Colorado State University (2003) in Fire Management and retired from the U.S. Airforce reserves after 20 years of service in 2004 as an E-7.

FINANCIAL IMPLICATIONS:

Ms. Huber will continue to serve as Fire Chief and will not receive additional compensation as Deputy Mayor.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

Failure to confirm the appointment of the Deputy Mayor will result in that position remaining vacant.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15107

A RESOLUTION CONFIRMING THE APPOINTMENT OF
BARBARA HUBER TO THE POSITION OF DEPUTY
MAYOR

WHEREAS, Section 4-5 of the City Charter requires that the Mayor appoint a Deputy Mayor on an annual basis; and

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Fire Chief Barbara Huber to the position of Deputy Mayor; and

WHEREAS, Ms. Huber meets and surpasses the qualifications for appointment as the Deputy Mayor, for a third term, based upon her education, training and experience; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The appointment by the Mayor of Barbara Huber as Deputy Mayor shall be and hereby is confirmed by the City Council.

SECTION 2.

This appointment shall begin on January 1, 2023 and terminate on December 31, 2023 unless the Mayor reappoints Ms. Huber to the position of Deputy Mayor.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with this Resolution and the attached agreements which are necessary or appropriate to implement the appointment described herein.

SECTION 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: December 27, 2022

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
DEPUTY CITY CLERK



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 27, 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 APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND PUEBLO COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO, AS FISCAL AGENT OF THE PUEBLO COUNTY HOUSE BILL 04-1451 COLLABORATIVE MANAGEMENT PROGRAM, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF TWENTY-FIVE THOUSAND DOLLARS (\$25,000) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

SUMMARY:

This Ordinance approves and authorizes the Mayor to sign a Subrecipient Agreement with Pueblo County, as fiscal agent of the County House Bill 04-1451 Collaborative Management Program ("CMP") (hereinafter "Project") as authorized by Section 603 of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6. Funds for the project, in the amount of \$25,000 will be paid out of Project No. CI2113, the American Rescue Plan Act.

PREVIOUS COUNCIL ACTION:

By Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI2113 and budgeted and appropriated up to \$36.7 million in funds which were expected to be distributed to the City from the American Recovery Plan Act ("ARPA") for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026).

BACKGROUND:

The Pueblo County House Bill 04-1451 / Collaborative Management Program (CMP) is part of a statewide program under the umbrella of the Colorado Department of Human Services (CDHS) that serves at-risk, multi-system involved youth between ages 0-21

and their families. The four focus areas of the program are: Child Welfare, Juvenile Justice, Behavioral Health and Education. In Pueblo County, the focus of the CMP is on education (truancy/school attendance issues, behavioral/disciplinary problems, academic issues, and other educational “disengagement” problems), although since the families are multi-system involved they often touch all of the emphasis areas. The Pueblo Interagency Oversight Group (PIOG) board oversees the programmatic and financial functions of the program, and is comprised of statutorily-mandated collaborative partners, including: Pueblo County Department of Human Services, the Tenth Judicial District Courts and Probation, Pueblo Department of Public Health & Environment, School District 60, Health Solutions, Health Colorado, Division of Youth Services, Signal Behavioral Health, YWCA of Pueblo, Crossroads’ Turning Points, and Catholic Charities of Southern Colorado. The PLOG board has budgeted a small amount of flex-funds every fiscal year to assist CMP families with simple economic barriers to school and system success, primarily housing assistance (rent, deposit, hotels, etc.), utility-bill assistance, car-repair help, and other related expenses. The board has traditionally budgeted approximately \$50,000 per year in flex funds for financial assistance, but the COVID pandemic has greatly increased the level of need the CMP is seeing with their client families, with clients losing employment or seeing their work hours greatly reduced as a result of the economic damage caused by the global pandemic. For example, in the first quarter (July-September) of the state fiscal year in FY 2021-22 the CMP served 13 new families, while in the first quarter of FY 2022-23 we worked with 34 families, almost triple the amount from the year before. The City is seeing increasing levels of homelessness and housing instability among our client families.

In an effort to combat and mitigate the negative economic impact of the COVID-19 pandemic, the Collaborative Management Program partnered with School District 60 in July 2021 on their American Rescue Plan – Homeless Children and Youth I (ARP-HCY I) grant. This partnership enabled the CMP to access increased funds for helping homeless students and families to access stable housing, spending over \$55,751.39 in FY 2021-22 to help 39 families (with 73 youth) access either temporary (hotels) or more permanent housing (rent, deposit). In August 2022, District 60 was notified by the grantor that the ARP-HCY I funding could no longer be used for the “permanent” housing category (for helping clients with rental deposits and first month’s rent). The grant is now being limited to “temporary” housing – primarily two weeks at a hotel. This change is severely affecting the assistance the Subrecipient can provide to families. The initial move-in costs on a house or apartment can be very daunting (with the deposit and first month’s rent being out of reach for a lot of families, especially with the economic changes caused by the pandemic) and this type of help is more effective than merely helping a family with 2 weeks at a hotel. Subrecipient is proposing that its program be assisted with \$25,000 from the City of Pueblo’s allocation of ARPA funds in order to devote this funding to assist homeless students and their families with rent and rental deposit help on permanent housing (to either private landlords, apartment complexes, property management companies, mobile home parks, and other entities that provide permanent housing). If approved, this ARPA funding would help to replace the loss of available funding through the District 60 ARP-HCY I grant which is no longer accessible for permanent-housing assistance. The financial assistance would be case-by-case, but once per family, with an approximate cost (based on our historical data) of \$800-\$2,500 per family, meaning we could assist between 10-30 families with move-in costs between now and the end of the current fiscal year on June 30, 2023.

Access to this \$25,000 of Pueblo ARPA funding would enable the Collaborative Management Program to help economically-impacted homeless students and families access permanent housing, which is a current “gap” in service caused by the change to the D60 ARP-HCY I grant. The CMP has seen an almost tripled increase in referred families looking for help over the past several years, coinciding with the economic impact caused by the COVID pandemic. Stable housing leads to better outcomes, including increased school attendance, increased academic achievement, better management of mental health symptoms, fewer entries into the child-welfare system, and lower criminal-justice involvement. Additionally, while the ARP-HCY I grant was limited to students and families enrolled in a District 60 school, the Pueblo ARPA funding would be open to all students and families who reside in Pueblo County, regardless of school district.

FINANCIAL IMPLICATIONS:

Pueblo County, as fiscal agent, will receive \$25,000 in ARPA funds from Project No.CI2113.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could decide not to support the County House Bill 04-1451 Collaborative Management Program.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. ARPA Subrecipient Agreement - City and County - HB 04-1451

ORDINANCE NO.

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND PUEBLO COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO, AS FISCAL AGENT OF THE PUEBLO COUNTY HOUSE BILL 04-1451 COLLABORATIVE MANAGEMENT PROGRAM, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF TWENTY-FIVE THOUSAND DOLLARS (\$25,000) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; NOW, THEREFORE,.

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Subrecipient Agreement ("Agreement") dated January 9, 2023, between the City of Pueblo, a Colorado municipal corporation and Pueblo County, a political subdivision of the State of Colorado, as fiscal agent of the County House Bill 04-1451 Collaborative Management Program ("CMP") 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 Agreement for and on behalf of the City and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 3.

Funds in the amount of \$25,000 are hereby authorized to be paid from Project No. CI2113 – American Rescue Plan Act, for purposes of providing financial support to the Pueblo County House Bill 04-1451 Collaborative Management Program.

SECTION 4.

The officers and staff 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 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 _____.

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

SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT (“Agreement”) is made and entered into this 9th day of January, 2023 (hereinafter “Effective Date”) by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the “City” and Pueblo County, a political subdivision of the State of Colorado, as fiscal agent of the County House Bill 04-1451 Collaborative Management Program, hereinafter referred to as the “Subrecipient” or “County.” City and Subrecipient/County are sometimes each referred to as a “Party” and collectively “Parties.”

RECITALS

The following recitals are incorporated in and made a part of this Agreement.

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter “ARPA”); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations (“CFR”); and

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI2113 and budgeted and appropriated up to \$36.7 million in funds which were expected to be distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations (“CFR”); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds (“CLFRF”) to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, Subrecipient has requested that the City use CLRF Funds to support its County House Bill 04-1451 Collaborative Management Program (hereinafter “Project”); and

WHEREAS, the City desires to disburse funds from Project No. CI2113 to the Subrecipient to administer the Project and perform certain services in connection therewith as set forth in this Agreement and in the Scope of Services attached hereto; and

WHEREAS, Subrecipient has represented to the City that is duly qualified, eligible and willing to undertake the Project and provide the services identified herein and in the Scope of Services attached hereto.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties hereto mutually agree as follows:

1. FACTUAL BASIS FOR THE GRANT AWARD

- (a) The Pueblo County House Bill 04-1451 / Collaborative Management Program (CMP) is part of a statewide program under the umbrella of the Colorado Department of Human Services (CDHS) that serves at-risk, multi-system involved youth between ages 0-21 and their families. The four focus areas of the program are: Child Welfare, Juvenile Justice, Behavioral Health and Education. In Pueblo County, the focus of the CMP is on education (truancy / school attendance issues, behavioral / disciplinary problems, academic issues, and other educational “disengagement” problems), although since the families are multi-system involved they often touch all of the emphasis areas. The Pueblo Interagency Oversight Group (PIOG) board oversees the programmatic and financial functions of the program, and is comprised of statutorily-mandated collaborative partners, including: Pueblo County Department of Human Services, the Tenth Judicial District Courts and Probation, Pueblo Department of Public Health & Environment, School District 60, Health Solutions, Health Colorado, Division of Youth Services, Signal Behavioral Health, YWCA of Pueblo, Crossroads’ Turning Points, and Catholic Charities of Southern Colorado. The PIOG board has budgeted a small amount of flex-funds every fiscal year to assist CMP families with simple economic barriers to school and system success, primarily housing assistance (rent, deposit, hotels, etc.), utility-bill assistance, car-repair help, and other related expenses. The board has traditionally budgeted approximately \$50,000 per year in flex funds for financial assistance, but the COVID pandemic has greatly increased the level of need the CMP is seeing with their client families, with clients losing employment or seeing their work hours greatly reduced as a result of the economic damage caused by the global pandemic. For example, in the first quarter (July-September) of the state fiscal year in FY 2021-22 the CMP served 13 new families, while in the first quarter of FY 2022-23 we worked with 34 families, almost triple the amount from the year before. The City is seeing increasing levels of homelessness and housing instability among our client families.
- (b) In an effort to combat and mitigate the negative economic impact of the COVID-19 pandemic, the Collaborative Management Program partnered with School District 60 in July 2021 on their American Rescue Plan –

Homeless Children and Youth I (ARP-HCY I) grant. This partnership enabled the CMP to access increased funds for helping homeless students and families to access stable housing, spending over \$55,751.39 in FY 2021-22 to help 39 families (with 73 youth) access either temporary (hotels) or more permanent housing (rent, deposit). In August 2022, District 60 was notified by the grantor that the ARP-HCY I funding could no longer be used for the “permanent” housing category (for helping clients with rental deposits and first month’s rent). The grant is now being limited to “temporary” housing – primarily two weeks at a hotel. This change is severely affecting the assistance the Subrecipient can provide to families. The initial move-in costs on a house or apartment can be very daunting (with the deposit and first month’s rent being out of reach for a lot of families, especially with the economic changes caused by the pandemic) and this type of help is more effective than merely helping a family with 2 weeks at a hotel. Subrecipient is proposing that its program be assisted with \$25,000.00 from the City of *Pueblo’s allocation of ARPA* funds in order to devote this funding to assist homeless students and their families with rent and rental deposit help on permanent housing (to either private landlords, apartment complexes, property management companies, mobile home parks, and other entities that provide permanent housing). If approved, this ARPA funding would help to replace the loss of available funding through the District 60 ARP-HCY I grant which is no longer accessible for permanent-housing assistance. The financial assistance would be case-by-case, but once per family, with an approximate cost (based on our historical data) of \$800-\$2,500 per family, meaning we could assist between 10-30 families with move-in costs between now and the end of the current fiscal year on June 30, 2023.

- (c) Access to this \$25,000.00 of Pueblo ARPA funding would enable the Collaborative Management Program to help economically-impacted homeless students and families access permanent housing, which is a current “gap” in service caused by the change to the D60 ARP-HCY I grant. The CMP has seen an almost tripled increase in referred families looking for help over the past several years, coinciding with the economic impact caused by the COVID pandemic. Stable housing leads to better outcomes, including increased school attendance, increased academic achievement, better management of mental health symptoms, fewer entries into the child-welfare system, and lower criminal-justice involvement. Additionally, while the ARP-HCY I grant was limited to students and families enrolled in a District 60 school, the Pueblo ARPA funding would be open to all students and families who reside in Pueblo County, regardless of school district.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

- (a) Prior to receiving ARPA funds under this Agreement, Subrecipient is required to provide the City with a federal SAM Unique Entity ID.

- (b) Subrecipient agrees to satisfactorily perform and complete all services and items of work, and furnish all labor and materials encompassed within or reasonably necessary to accomplish the tasks and functions described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference, in full compliance with all provisions of this Agreement.
- (c) Subrecipient warrants and represents that it: (i) has the requisite authority and capacity to perform all terms and conditions on Subrecipient's part to be performed hereunder; (ii) that it is fully aware of and understands its duty to perform all functions and services in accordance with the regulatory requirements of 31 CFR Part 35 and those identified in Exhibit "C" hereto; and (iii) that it is accepting federal financial assistance hereunder subject to certain mandatory repayment provisions.
- (d) This Agreement is a covered transaction for purposes of 2 CFR, Part 180 and 2 CFR, Part 3000. As such the Subrecipient is required to verify that none of the Subrecipient, 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).
- (e) The Subrecipient 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.
- (f) This certification is a material representation of fact relied upon by City. If it is later determined that the Subrecipient 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.
- (g) The Subrecipient agrees to comply with the requirements of 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C during the term of this Agreement. The Subrecipient further agrees to include a provision requiring such compliance in its lower tier covered transactions.

3. RESPONSIBILITIES OF THE CITY

The City shall designate a representative of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the performance of this Agreement and the disbursement of funds in connection with the Project. In the absence of such a designation, the City Mayor shall be deemed as City's authorized representative.

4. SUBRECIPIENT'S COMPENSATION AND METHOD OF PAYMENT

- (a) The City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Subrecipient has expended funds for eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City, (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.
- (b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.
- (c) The aggregate of all payments made hereunder shall not exceed Twenty-Five Thousand Dollars (U.S. \$25,000.00). City shall make full payment to Subrecipient within thirty (30) days following approval of this Agreement by the City Council of the City of Pueblo and execution of this Agreement by the Subrecipient.
- (d) Notice pursuant to 2 CFR 25.300 – Requirement for recipients to ensure subrecipients have a unique entity identifier:
- A recipient of ARPA funds, such as the City of Pueblo, may not make a subaward to a subrecipient unless the subrecipient has obtained and provided to the recipient a unique entity identifier. Subrecipients are not required to complete full SAM registration to obtain a unique entity identifier.
 - A recipient must notify any potential subrecipients that the recipient cannot make a subaward unless the subrecipient has obtained a unique entity identifier.

- (e) Upon expiration of the term of this Agreement or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

5. TERM OF PROJECT AND AGREEMENT

- (a) The term of the Project shall be from Effective Date set forth above to December 31, 2024 unless sooner terminated as herein provided.
- (b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2024 unless sooner terminated as herein provided.

6. TERMINATION OF AGREEMENT

- (a) For Cause: This Agreement may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the appropriateness thereof shall be final and binding upon both City and Subrecipient. Cause for termination shall include any material failure by Subrecipient to comply with any term of this Agreement.
- (b) For Convenience: This Agreement may be terminated by either Party for convenience upon ten (10) days written notice to the non-terminating Party, which decision shall not be subject to appeal.
- (c) Post Expiration and Termination Procedures: Upon expiration or in the event of a prior termination, all remaining and unspent grant funds, shall immediately become the sole and separate property of the City and the Subrecipient shall perform all acts and execute all instruments necessary to transfer and assign such funds to the City. All finished or unfinished documents, data, studies, reports, and work product prepared by the Subrecipient under this Agreement or with grant funds shall, at the option of the City, become City's property.

7. ASSIGNABILITY

This Agreement shall not be assigned or transferred by the Subrecipient without the prior written consent of the City. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

8. CONFLICT OF INTEREST

The Subrecipient certifies and warrants that neither it nor any members of its Board of Directors, officers or employees has or will derive any personal or financial interest or benefit from the activity or activities assisted pursuant to this Agreement, nor has an interest in any contract, subcontract or agreement with respect thereunto, 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. Subrecipient shall avoid all conflicts of interest which are prohibited by applicable federal regulations including but not limited to those set forth in 31 CFR Part 35 as presently promulgated and as same may be revised from time to time in the future.

9. SUBRECIPIENT RECORDS

Subrecipient shall maintain records as to all services provided, reimbursable expenses incurred in performing the Scope of Services and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. The Subrecipient agrees to comply with all applicable uniform administrative requirements described or referenced in 31 CFR 35. The Compliance Provisions attached as Exhibit "B" hereto are made a part of this Agreement and Subrecipient agrees to perform and comply with same. The City, Comptroller General of the United States, the Inspector General of the U.S. Treasury and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of the Subrecipient which relate to this Agreement for making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may require copies of all Subrecipient's financial records relating to this Agreement to be turned over to City.

10. MONITORING AND EVALUATION

The City shall have the right to monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this Agreement are being satisfactorily fulfilled in accordance with City's and other applicable monitoring and evaluation criteria and standards. The City shall at least quarterly review the Subrecipient's performance using on-site visits, progress reports required to be submitted by the Subrecipient, audit findings, disbursements transactions and contact with the Subrecipient as necessary. Upon request, the Subrecipient shall furnish to the City quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Subrecipient shall fully cooperate with City in relation to such monitoring and evaluation.

11. SUBRECIPIENT FILES AND INFORMATION REPORTS

The Subrecipient shall maintain files containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances and activity reports. These records shall be retained by the Subrecipient for a period of three years after the completion of

the Project. Financial and activity reports shall be submitted quarterly no later than the ninth day of the month following the end of the quarter for which the report is submitted.

12. INDEPENDENCE OF SUBRECIPIENT

Nothing herein contained nor the relationship of Subrecipient to City, which relationship is expressly declared to be that of an independent Agreement or, shall make or be construed to make Subrecipient or any of Subrecipient's agents or employees the agents or employees of the City. Subrecipient shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

13. LIABILITY AND INSURANCE

- (a) As to the City, Subrecipient agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in conjunction with or arising out of the performance or nonperformance of this Agreement by Subrecipient or by the conditions created thereby.
- (b) During the term of the Project, Subrecipient shall maintain Workers' Compensation Insurance complying with statutory requirements in Colorado.

14. CERTIFICATIONS

The Subrecipient agrees to execute and abide by the certifications contained in Exhibit "C" hereto, and Subrecipient's application for ARPA funds, both of which are hereby made a part of this Agreement. In the event of any conflict between the terms of this Agreement and Subrecipient's Application, this Agreement shall control.

15. REVERSION OF ASSETS

- (a) Upon expiration of the term of this Agreement, or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.
- (b) In the event City incurs any costs or expenses in enforcing the requirements of this paragraph 15 or in bringing any action to recover the property or amount of any repayment obligation, City shall be entitled to recover its costs and expenses, including reasonable attorney's fees.

16. PERA LIABILITY

The Subrecipient 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 Agreement ed services for the City under this Agreement. The Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

17. ENTIRE AGREEMENT; AMENDMENTS

The provisions set forth in this Agreement, and all Exhibits and attachments to this Agreement, constitute the entire and complete agreement of the parties hereto and supersede all prior written and oral agreements, understandings or representations related thereto. No amendment or modification of this Agreement, and no waiver of any provisions of this Agreement shall be binding unless made in writing and executed by the duly authorized officers of both the Subrecipient and City.

18. GOVERNMENT IMMUNITY. Neither Party hereto waives or intends to waive, by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act § 24-10-101 to 120, C.R.S., or otherwise available under applicable law.

19. NO THIRD-PARTY BENEFICIARIES. 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 and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party. It is the express intention of the Parties that any person other than the Parties receiving services or benefits under the Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation arising under this Agreement, the court shall award to the prevailing Party its costs and reasonable attorney fees. Exclusive venue for any such litigation shall be Pueblo County, Colorado. All such litigation shall be filed in the District Court, County of Pueblo, State of Colorado, and each Party submits to the personal and subject matter jurisdiction of such District Court. To the fullest extent permitted by law, the Parties hereby waive their right to a trial by jury.

21. SEVERABILITY. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

22. RULES OF CONSTRUCTION. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

23. WAIVER. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision

hereof.

24. NO MONETARY DAMAGES. In consideration of City entering into the Agreement, Subrecipient waives and discharges City, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law. The City waives and discharges County, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law.

25. COUNTERPARTS. This Agreement may be executed in two (2) or more counterparts and each such counterpart shall be deemed for all purposes to be an original and all such counterparts shall together constitute but one and the same original.

26. SIGNATURES. The persons signing this Agreement on behalf of Subrecipient represent and warrant that such persons and Subrecipient have the requisite power and authority to enter, execute and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Subrecipient enforceable against Subrecipient in accordance with its terms.

IN WITNESS, WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

ATTEST:

CITY OF PUEBLO
A COLORADO MUNICIPAL
CORPORATION

City Clerk

By: _____
Nicholas A Gradisar, Mayor

[S E A L]

Subrecipient:

PUEBLO COUNTY, COLORADO as
fiscal agent of the County House Bill 04-
1451 Collaborative Management
Program

By: _____
Sabina Genesio, County Manager

EXHIBIT A SCOPE OF SERVICES

Changes in the scope of services, budget, or method of compensation contained in this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Subrecipient and the City.

A. Performance Monitoring:

The City will monitor the performance of the Subrecipient according to the Principal Tasks and Budget set forth herein. Substandard performance shall mean non-compliance with this Agreement. If actions to correct such substandard performance are not taken by the Subrecipient within a reasonable period of time after being so notified by the City, contract suspension or termination procedures may be initiated, in the sole discretion of the City.

SUBRECIPIENT'S SCOPE OF SERVICES

B. Principal Tasks

The Subrecipient will be responsible for administering the Project. The Subrecipient will administer all tasks encompassed in the aforesaid Project in compliance with all applicable federal, state and local rules and regulations governing the Project, in a manner satisfactory to the City. The components of the Subrecipient's work plan under this Agreement shall be as follows:

The Pueblo County Department of Human Services shall be the fiscal agent for the Collaborative Management Program (CMP) and handle all of the assistance check requests. The CMP staff shall receive referrals from the schools (or other collaborative partners), then speak with the family to get the required information (landlord name / contact number, property management company, etc.). CMP shall then obtain a signed W-9 form from the landlord and cross-check the property address with the Pueblo County Assessor website to verify that the landlord is the legal owner of the property. CMP shall then submit a check request for the rental deposit and / or first month's rent, which Pueblo County DHS shall then process within 2-3 business days. The check shall then be submitted to the landlord based on their preference (in-person, via mail, given to the client / tenant for them to submit, etc.).

The CMP shall measure school-attendance and academic-achievement outcomes, measured from the date of the initial contact through case-closure (which typically shall occur at one calendar year). Additionally, for youth and families who are also involved with the Department of Human Services through an active child-welfare case, CMP shall collect data regarding the percentage of families with no further substantiated abuse or neglect and also collect such data (via a cross-check of CMP client lists with DHS Child Welfare lists) at one-year post-services. These outcome measurements shall be submitted to the Colorado Department of Human Services (CDHS) annually in July via an Annual Report. These measurements shall be used as part of calculating Pueblo

County's payout from the *Earned Incentive Fund*, which CDHS maintains with funds collected through Colorado civil court fees and additional allocations (if any) from the Colorado State Legislature. Payouts shall be deposited with Pueblo County's human services department in October of each year.

C. Budget \$25,000.

EXHIBIT B
COMPLIANCE PROVISIONS INCORPORATED
IN THE SUBRECIPIENT AGREEMENT

1. An accounting system using the accrual basis of generally accepted accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project is mandatory. A receipts and disbursements ledger must be maintained. A general ledger with an income and expense account for each budgeted line item is necessary. Paid invoices revealing check number, date paid and item is necessary. Similarly, cash receipts for the payment of wages is mandatory. Paid invoices revealing check number, date paid and evidence of goods or services received are to be filed per the expense account they were charged.

2. There is no flexibility on budgets. Line items may be changed only by the City's written concurrence of a budget amendment.

3. Eligible expenses are those considered reasonable and necessary costs for the efficient operation of the Project as determined by the City. All costs must be budgeted items. Request for advance or reimbursements of expenses must be accompanied by:

1. Original invoice marked with funding source
2. Detailed listing of each expense showing:
 - a) recipient
 - b) brief description of purchase
 - c) amount with method of computation detailed

Cost Summary must be submitted quarterly to reflect entries through the closing date for the books (indicate Closing Date on Cost Summary).

4. The City shall not be obligated to any third party Agreement contractors of the Subrecipient. The subrecipient is further cautioned against obligating funds beyond the Agreement date of the agreement between the City and the Subrecipient.

5. The Subrecipient will furnish the City such statements, records, data and information, and permit such interviews with personnel as the City may request to effectively monitor and evaluate the project.

6. City auditors will periodically make interim audits and may, upon completion of the Project, make a final audit.

7. All records must be retained by the Subrecipient for a period of three years following the last day of the Agreement. (Cost summary reports must reflect actual general ledger balances.)

EXHIBIT C CERTIFICATIONS

Subrecipient hereby certifies that the grant will be conducted and administered in compliance with all applicable municipal, state and federal statutes and regulations, including but not limited to the following:

Municipal and State

(1) The Charter, Municipal Code and the Rules and Regulations of the City of Pueblo, including but not limited to, the legal obligation to obtain all required licenses and permits from the City of Pueblo.

(2) The Constitution, Colorado Revised Statutes and the Rules and Regulations of the State of Colorado, including, but not limited to, the legal obligation to obtain all required licenses and permits from the State of Colorado.

Federal

(1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;

(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended;

(5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;

(6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;

(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;

(8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;

(9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;

(10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;

(11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133 as they relate to the acceptance and use of federal funds under this federally-assisted program;

(13) The Clean Air Act (42 U.S.C. 7401 et seq.) as amended (particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)]) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended. Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA);

(14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et seq., and 21 U.S.C. 349) as amended; particularly section 1424 (e) (42 U.S.C. 300 (h)-303 (e));

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act

(29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis-Bacon Wage Decision issued for the project will be incorporated into this Agreement document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed pursuant to the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal Agreement , the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Agreement, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

(25) The Subrecipient 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.

(26) The Subrecipient and all of its subcontractors acknowledge and will comply with the requirements of 2 C.F.R. § 200.216, including the prohibition on spending federal loan or grant funds to procure or obtain the prohibited equipment, services, or systems covered by the provision.

(27) To the extent consistent with law and in accordance with 2 C.F.R. § 200.322, Subrecipient and all of its subcontractors will to the greatest extent practicable under the Agreement, 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 which Subrecipient may enter into.

EXHIBIT D

COLORADO PUBLIC EMPLOYEES RETIREMENT ASSOCIATION SUPPLEMENTAL QUESTIONNAIRE TO BE ANSWERED BY ANY BUSINESS PERFORMING SERVICES FOR THE CITY OF PUEBLO

Pursuant to section 24-51-1101(2), C.R.S., salary or other compensation from the employment, engagement, retention or other use of a person receiving retirement benefits (Retiree) through the Colorado Public Employees Retirement Association (PERA) in an individual capacity or of any entity owned or operated by a PERA Retiree or an affiliated party by the City of Pueblo to perform any service as an employee, Agreement employee, consultant, independent Agreement or, or through other arrangements, is subject to employer contributions to PERA by the City of Pueblo. Therefore, as a condition of Agreement ing for services with the City of Pueblo, this document must be completed, signed and returned to the City of Pueblo:

- a) Are you, or do you employ or engage in any capacity, including an independent Agreement or, a PERA Retiree who will perform any services for the City of Pueblo?
Yes ____, No ____.
- b) If you answered “yes” to (a) above, please answer the following question: Are you an individual, sole proprietor or partnership, or a business or company owned or operated by a PERA Retiree or an affiliated party? Yes ____, No ____.
If you answered “yes” please state which of the above entities best describes your business:

- c) If you answered “yes” to both (a) and (b), please provide the name, address and social security number of each such PERA Retiree.

Name

Address

Social Security Number

Name

Address

Social Security Number

(If more than two, please attach a supplemental list)

Failure to accurately complete, sign and return this document to the City of Pueblo may result in your being denied the privilege or doing business with the City of Pueblo.

If you answered “yes” to both (a) and (b), you agree to reimburse the City of Pueblo for any employer contribution required to be paid by the City of Pueblo to PERA for salary or other compensation paid to you as a PERA Retiree or paid to any employee or independent Agreement or of yours who is a PERA Retiree performing services for the City of Pueblo. You further authorize the City of Pueblo to deduct and withhold all such contributions from any moneys due or payable to you by the City of Pueblo under any current or future Agreement or other arrangement for services between you and the City of Pueblo.

Signed _____, 20_____.

By: _____

Name: _____

Title: _____

For purposes of responding to question (b) above, an “affiliated party” includes (1) any person who is the named beneficiary or co-beneficiary on the PERA account of the PERA Retiree; (2) any person who is a relative of the PERA Retiree by blood or adoption to and including parents, siblings, half-siblings, children, and grandchildren; (3) any person who is a relative of the PERA Retiree by marriage to and including spouse, spouse’s parents, stepparents, stepchildren, stepsiblings, and spouse’s siblings; and (4) any person or entity with whom the PERA Retiree has an agreement to share or otherwise profit from the performance of services for the City of Pueblo by the PERA Retiree other than the PERA Retiree’s regular salary or compensation.



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 27, 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 ESTABLISHING PROJECT PL2201, WESTSIDE TRAIL (WILDHORSE TRAIL) PROJECT, AND APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT), PROJECT: MTF M086-098 (25192) IN THE AMOUNT OF \$850,000, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$850,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance creates Project PL2201 for the Westside Trail (Wildhorse Trail) Project, and approves an Intergovernmental Agreement ("IGA") between Pueblo, a Colorado Municipal Corporation ("City") and the State of Colorado, Colorado Department of Transportation ("CDOT") relating to the Multimodal Transportation & Mitigation Options Funding Grant in the amount of \$850,000.00, and budgets and appropriates funds totaling \$850,000.00 for the Project

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

This Ordinance establishes the Westside Trail (Wildhorse Trail) Project PL2201 and approves the grant agreement between the City and CDOT.

The City submitted a Multimodal Transportation & Mitigation Options Funding grant for the construction of an off-street trail connection from West 18th Street to West 31st Street along the Wildhorse Creek Arroyo in 2022. The initial grant request was for a total funding of \$1,463,269; however, only a portion of the grant was awarded. The portion awarded was for a total of \$850,000 and will construct the trail from West 18th Street to West 24th Street.

The project will include the planning, surveying and design and construction of a 10' wide concrete multi-use trail. On street sidewalks and curb ramp improvements are anticipated on 18th Street and 24th Street. The project will also include lighting, grading and signage.

FINANCIAL IMPLICATIONS:

There is no match required for this grant. Funds in the amount of \$850,000.00 shall be budgeted and appropriated for Project PL2201.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Currently, there are no alternatives for completing the improvements without the funding from the Multimodal Transportation & Mitigation Options Funding.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. Westside Trail (Wildhorse Trail) Draft IGA
2. Grant Certification Westside Trail

ORDINANCE NO.

AN ORDINANCE ESTABLISHING PROJECT PL2201, WESTSIDE TRAIL (WILDHORSE TRAIL) PROJECT, AND APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT), PROJECT: MTF M086-098 (25192) IN THE AMOUNT OF \$850,000, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$850,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Westside Trail (Wildhorse Trail) Project PL2201, is hereby established.

SECTION 2.

The Intergovernmental Agreement ("IGA") between the City of Pueblo, a Colorado Municipal Corporation, and the State of Colorado, acting with and through the Colorado Department of Transportation (CDOT), Project: MTF M086-098 (25192), Westside Trail (Wildhorse Trail) Project, a copy of which is attached, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

Subject to encumbrances by the Colorado State Department of Transportation (CDOT), and funds from the Highway Safety Improvement Program MTF M086-098 (25192) in the amount of \$850,000.00 are hereby budgeted and appropriated for the Westside Trail (Wildhorse Trail) Project PL2201.

SECTION 4.

The Mayor is authorized to execute and deliver the IGA 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 5.

The officers of the City are authorized to perform any and all acts consistent with this Ordinance and IGA 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

State SLAWRK
PROJECT: MTF M086-098, (25192) Pueblo
Westside Trail (Wildhorse Trail)

REGION: 2
TLJ

CONTRACT

THIS CONTRACT made this ____ day of _____, 20____, by and between the State of Colorado for the use and benefit of the Colorado Department of Transportation hereinafter referred to as the State and CITY OF PUEBLO hereinafter referred to as the "Contractor" or the "Local Agency."

RECITALS

1. Authority exists in the law and funds have been budgeted, appropriated and otherwise made available and a sufficient uncommitted balance thereof remains available for payment of project and Local Agency costs. Total Contract Amount: \$850,000.00.
2. Required approval, clearance and coordination have been accomplished from and with appropriate agencies.
3. Pursuant to 43-2-104.5 C.R.S. as amended, the State may contract with Local Agencies to provide maintenance and construction of highways that are part of the state (or local agency) highway system.
4. Local Agency anticipates a project for Design and Construction of off-street trail connection from West 18th St to West 24th St and by the date of execution of this contract, the Local Agency and/or the State has completed and submitted a preliminary version of CDOT form #463 describing the general nature of the Work. The Local Agency understands that before the Work begins, the Local Agency must receive an official written "Notice to Proceed" prior to commencing any part of the Work. The Local Agency further understands, before the Work begins, the form #463 may be revised as a result of design changes made by CDOT, in coordination with the Local Agency, in its internal review process. The Local Agency desires to perform the Work described in form #463, as it may be revised.
5. The Local Agency has requested that State funds be made available for project MTF M086-098,(25192) Pueblo Westside Trail (Wildhorse Trail) referred to as the "Project" or the "Work." Such Work will be performed in Pueblo, Colorado, specifically described in **Exhibit A**.
6. The State has funds available and desires to provide 100% of the funding for the work. Local Agency will provide the other 0%. State funds may be awarded with "Special Funding". Special Funding may include but is not limited to one or a combination of Multimodal Transportation & Mitigation Options Funding, Revitalizing Main Streets, Safer Main Streets, Stimulus Funds or COVID Relief. If Special Funding is used there may be an expiration date for the funds. The expiration date applies to grants and local funds used to match grants. To receive payment or credit for the match, Work must be completed or substantially completed, as outlined in the terms of the grant, prior to the expiration date of the Special Funding and invoiced in compliance with the rules outlined in the award of the funding.
7. The Local Agency desires to comply with all state and other applicable requirements, including the State's general administration of the project through this contract, in order to obtain state funds for the project.
8. The Local Agency has estimated the total cost of the work and is prepared to accept the state funding for the work, as evidenced by an appropriate ordinance or resolution duly passed and adopted by the authorized representatives of the Local Agency, which expressly authorizes the Local Agency to enter into this contract and to complete the work under the project. A copy of this ordinance or resolution is attached hereto and incorporated herein as **Exhibit B**.
9. This contract is executed under the authority of §§ 29-1-203, 43-1-110; 43-1-116, 43-2-101(4)(c) and 43-2-144, C.R.S. and **Exhibit B**.
10. The Local Agency is adequately staffed and suitably equipped to undertake and satisfactorily complete some or all of the Work.
11. The Local Agency can more advantageously perform the Work.

THE PARTIES NOW AGREE THAT:

Section 1. Scope of Work

The Project or the Work under this contract shall consist of Design and Construction of off-street trail connection from West 18th St to West 24th St, in Pueblo, Colorado, as more specifically described in **Exhibit A**.

Section 2. Order of Precedence

In the event of conflicts or inconsistencies between this contract and its exhibits, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

1. Special Provisions contained in **Section 27** of this contract
2. This contract
3. **Exhibit A** (Scope of Work)
4. **Exhibit B** (Local Agency Resolution)
5. **Exhibit C** (Funding Provisions)
6. **Exhibit D** (Option Letter)

Section 3. Term

This contract shall be effective upon approval of the State Controller or designee, or on the date made, whichever is later. It shall terminate on November 16, 2032, or sooner if any of the State's funding expires, or is sooner terminated or unless performance is extended in accordance with this Contract.

Section 4. Project Funding Provisions

- A. The Local Agency has estimated the total cost of the work and is prepared to accept the state funding for the work, as evidenced by an appropriate ordinance or resolution duly passed and adopted by the authorized representatives of the Local Agency, which expressly authorizes the Local Agency to enter into this contract and to complete the work under the project. A copy of this ordinance or resolution is attached hereto and incorporated herein as **Exhibit B**.
- B. The parties hereto agree that this contract is contingent upon all funds designated for the project herein being made available from state sources, as applicable. Should these sources fail to provide necessary funds as agreed upon herein, the contract may be terminated by either party, provided that any party terminating its interest and obligations herein shall not be relieved of any obligations which existed prior to the effective date of such termination or which may occur as a result of such termination.
- C. Funding will be detailed in **Exhibit C** of the funding provisions.

Section 5. Project Payment Provisions

- A. The State will reimburse the Local Agency for incurred costs relative to the project following the State's review and approval of such charges, subject to the terms and conditions of this Contract. Provided however, that charges incurred by the Local Agency prior to the date this contract is executed by the State Controller will not be charged by the Local Agency to the project, and will not be reimbursed by the State.
- B. The State will reimburse the Local Agency's reasonable, allocable, allowable costs of Performance of the Work, not exceeding the maximum total amount described in **Exhibit C**. The applicable principles described in 49 C.F.R. 18 Subpart C and 49 C.F.R. 18.22 shall govern the allowability and allocability of costs under this contract. The Local Agency shall comply with all such principles. To be eligible for reimbursement, costs by the Local Agency shall be:
 1. In accordance with the provisions of **Section 5** and with the terms and conditions of this contract;
 2. Necessary for the accomplishment of the Work;
 3. Reasonable in the amount for the goods and services provided;
 4. Actual net cost to the Local Agency (i.e. the price paid minus any refunds, rebates, or other items of value received by the Local Agency that have the effect of reducing the cost actually incurred);
 5. Incurred for Work performed after the effective date of this contract;
 6. Satisfactorily documented.
- C. The Local Agency shall establish and maintain a proper accounting system in accordance with generally accepted accounting standards (a separate set of accounts, or as a separate and integral part of its current accounting scheme) to assure that project funds are expended and costs accounted for in a manner consistent with this contract and project objectives.
 1. All allowable costs charged to the project, including any approved services contributed by the Local Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in detail the nature of the charges.
 2. Any check or order drawn up by the Local Agency, including any item which is or will be chargeable against the project account shall be drawn up only in accordance with a properly signed voucher then on file in the office of the Local Agency, which will detail the purpose for which said check or order is drawn. All checks,

- payrolls, invoices, contracts, vouchers, orders or other accounting documents shall be clearly identified, readily accessible, and to the extent feasible, kept separate and apart from all other such documents.
- D. If the Local Agency is to be billed for CDOT incurred costs, the billing procedure shall be as follows:
1. Upon receipt of each bill from the State, the Local Agency will remit to the State the amount billed no later than 60 days after receipt of each bill. Should the Local Agency fail to pay moneys due the State within 60 days of demand or within such other period as may be agreed between the parties hereto, the Local Agency agrees that, at the request of the State, the State Treasurer may withhold an equal amount from future apportionment due the Local Agency from the Highway Users Tax Fund and to pay such funds directly to the State. Interim funds, until the State is reimbursed, shall be payable from the State Highway Supplementary Fund (400).
 2. If the Local Agency fails to make timely payment to the State as required by this section (within 60 days after the date of each bill), the Local Agency shall pay interest to the State at a rate of one percent per month on the amount of the payment which was not made in a timely manner, until the billing is paid in full. The interest shall accrue for the period from the required payment date to the date on which payment is made.
- E. The Local Agency will prepare and submit to the State, no more than monthly, charges for costs incurred relative to the project. The Local Agency's invoices shall include a description of the amounts of services performed, the dates of performance and the amounts and description of reimbursable expenses. The invoices will be prepared in accordance with the State's standard policies, procedures and standardized billing format to be supplied by the State. Additionally, the State shall have no obligation to pay Local Agency for any Work performed or expense incurred after the Agreement Expiration Date or after required billing deadline as specified in the award letter if applicable, whichever is sooner. The State's obligation to pay Agreement Funds will continue until the Agreement Expiration Date. If Agreement Funds expire before the Agreement Expiration Date, then no payments will be made after expiration of Agreement Funds. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Funding Provisions & Performance Period in **Exhibit C**.
- F. To be eligible for payment, billings must be received within 60 days after the period for which payment is being requested and final billings on this contract must be received by the State within 60 days after the end of the contract term.
1. Payments pursuant to this contract shall be made as earned, in whole or in part, from available funds, encumbered for the purchase of the described services. The liability of the State, at any time, for such payments shall be limited to the amount remaining of such encumbered funds.
 2. In the event this contract is terminated, final payment to the Local Agency may be withheld at the discretion of the State until completion of final audit.
 3. Incorrect payments to the Local Agency due to omission, error, fraud or defalcation shall be recovered from the Local Agency by deduction from subsequent payment under this contract or other contracts between the State and Local Agency, or by the State as a debt due to the State.
 4. Any costs incurred by the Local Agency that are not allowable under 49 C.F.R. 18 shall be reimbursed by the Local Agency, or offset against current obligations due by the State to the Local Agency, at the State's election.

Section 6. Option Letter Modification

An option letter may be used to authorize the Local Agency to begin a phase without increasing total budgeted funds, increase or decrease the encumbrance amount as shown on **Exhibit C**, and/or transfer funds from one phase to another. Option letter modification is limited to the specific scenarios listed below. The option letter shall not be deemed valid until signed by the State Controller or an authorized delegate.

- A. Option to begin a phase and/or increase or decrease the encumbrance amount.
- The State may authorize the Local Agency to begin a phase that may include Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous (this does not apply to Acquisition/Relocation or Railroads) as detailed in **Exhibit A** and at the same terms and conditions stated in the original Agreement, with the total budgeted funds as shown on **Exhibit C** remaining the same. The State may increase or decrease the encumbrance amount for a particular phase by replacing the original funding exhibit (**Exhibit C**) in the original Agreement with an updated **Exhibit C-1** (subsequent exhibits to Exhibit C-1 shall be labeled C-2, C-3, etc.). The State may exercise this option by providing a fully executed option to the Local Agency within thirty (30) days before the initial targeted start date of the phase, in a form substantially equivalent to **Exhibit D**. If the State exercises this option, the Agreement will be considered to include this option provision.

- B. Option to transfer funds from one phase to another phase.
The State may permit the Local Agency to transfer funds from one phase (Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous) to another as a result of changes to state, federal, and local match. The original funding exhibit (**Exhibit C**) in the original Agreement will be replaced with an updated **Exhibit C-1** (subsequent exhibits to **Exhibit C-1** shall be labeled **C-2**, **C-3**, etc.) and attached to the option letter. The funds transferred from one phase to another are subject to the same terms and conditions stated in the original Agreement with the total budgeted funds remaining the same. The State may unilaterally exercise this option by providing a fully executed option to the Local Agency within thirty (30) days before the initial targeted start date of the phase, in a form substantially equivalent to **Exhibit D**.
- C. Option to do both Options A and B.
The State may authorize the Local Agency to begin a phase as detailed in **Exhibit A**, and encumber and transfer funds from one phase to another. The original funding exhibit (**Exhibit C**) in the original Agreement will be replaced with an updated **Exhibit C-1** (subsequent exhibits to **Exhibit C-1** shall be labeled **C-2**, **C-3**, etc.) and attached to the option letter. The addition of a phase and encumbrance and transfer of funds are subject to the same terms and conditions stated in the original Agreement with the total budgeted funds remaining the same. The State may unilaterally exercise this option by providing a fully executed option to the Local Agency within thirty (30) days before the initial targeted start date of the phase, in a form substantially equivalent to **Exhibit D**.

Section 7. State and Local Agency Commitments

The Scope of Work in **Exhibit A** describes the Work to be performed and assigns responsibility of that Work to either the Local Agency or the State. The “Responsible Party” referred to in this contract means the Responsible Party as identified in the Scope of Work in **Exhibit A**.

A. Design [if applicable]

1. If the Work includes preliminary design or final design (the “Construction Plans”), or design work sheets, or special provisions and estimates (collectively referred to as the “Plans”), the responsible party shall comply with the following requirements, as applicable:
 - a. perform or provide the Plans, to the extent required by the nature of the Work.
 - b. prepare final design (Construction Plans) in accord with the requirements of the latest edition of the American Association of State Highway Transportation Officials (AASHTO) manual or other standard, such as the Uniform Building Code, as approved by CDOT.
 - c. prepare special provisions and estimates in accord with the State’s Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction or Local Agency specifications if approved by CDOT.
 - d. include details of any required detours in the Plans, in order to prevent any interference of the construction work and to protect the traveling public.
 - e. stamp the Plans produced by a Colorado Registered Professional Engineer.
 - f. provide final assembly of Plans and contract documents.
 - g. be responsible for the Plans being accurate and complete.
 - h. make no further changes in the Plans following the award of the construction contract except by agreement in writing between the parties. The Plans shall be considered final when approved and accepted by the parties hereto, and when final they shall be deemed incorporated herein.
2. If the Local Agency is the responsible party:
 - a. The local agency shall comply with the requirements of the Americans With Disabilities Act (ADA), and applicable federal regulations and standards as contained in the document “ADA Accessibility Requirements in CDOT Transportation Projects”.
 - b. It shall afford the State ample opportunity to review the Plans and make any changes in the Plans that are directed by the State to comply with State requirements.
 - c. It may enter into a contract with a consultant to do all or any portion of the Plans and/or of construction administration. Provided, however, that if federal-aid funds are involved in the cost of such work to be done by a consultant, that consultant contract (and the performance/provision of the Plans under the contract) must comply with all applicable requirements of 23 CFR Part 172 and with any procedures implementing those requirements as provided by the State. If the Local Agency does enter into a contract with a consultant for the Work:

- (1) it shall submit a certification that procurement of any design consultant contract complied with the requirements of 23 CFR 172.5(1) prior to entering into contract. The State shall either approve or deny such procurement. If denied, the Local Agency may not enter into the contract.
 - (2) it shall ensure that all changes in the consultant contract have prior approval by the State. Such changes in the contract shall be by written supplement agreement. As soon as the contract with the consultant has been awarded by the Local Agency, one copy of the executed contract shall be submitted to the State. Any amendments to such contract shall also be submitted.
 - (3) it shall require that all consultant billings under that contract shall comply with the State's standardized billing format. Examples of the billing formats are available from the CDOT Agreements Office.
 - (4) it (or its consultant) shall use the CDOT procedures described in **Exhibit A** to administer that design consultant subcontract, to comply with 23 CFR 172.5(b).
 - (5) it may expedite any CDOT approval of its procurement process and/or consultant contract by submitting a letter to CDOT from the certifying Local Agency's attorney/authorized representative certifying compliance with 23 CFR 172.5(b).
 - (6) it shall ensure that its consultant contract complies with the requirements of 49 CFR 18.36(i) and contains the following language verbatim:
 - (a) "The design work under this contract shall be compatible with the requirements of the contract between the Local Agency and the State (which is incorporated herein by this reference) for the design/construction of the project. The State is an intended third party beneficiary of this contract 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 discretion, will review construction plans, special provisions and estimates and will cause the Local Agency to make changes therein that the State determines are necessary to assure compliance with State requirements.
- B. Construction [if applicable]
1. If the Work includes construction, the responsible party shall perform the construction in accordance with the approved design plans and/or administer the construction all in accord with the Scope of Work in **Exhibit A**. Such administration shall include project inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving and securing the funding for contract modification orders and minor contract revisions; processing contractor claims; construction supervision; and meeting the Quality Control requirements as described in the Scope of Work in **Exhibit A**.
 2. The State shall have the authority to suspend the Work, wholly or in part, by giving written notice thereof to the Local Agency, due to the failure of the Local Agency or its contractor to correct project conditions which are unsafe for workers or for such periods as the State may deem necessary due to unsuitable weather, or for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by the State to be in the public interest.
 3. If the Local Agency is the responsible party:
 - a. it shall appoint a qualified professional engineer, licensed in the State of Colorado, as the Local Agency Project Engineer (LAPE), to perform that administration. The LAPE shall administer the project in accordance with this contract, the requirements of the construction contract and applicable State procedures.
 - b. if bids are to be let for the construction of the project, it shall advertise the call for bids upon approval by the State and award the construction contract(s) to the low responsible bidder(s) upon approval by the State.
 - (1) The Local Agency has the option to accept or reject the proposal of the apparent low bidder for work on which competitive bids have been received. The Local Agency must declare the acceptance or rejection within 3 working days after said bids are publicly opened.
 - (2) By indicating its concurrence in such award, the Local Agency, acting by or through its duly authorized representatives, agrees to provide additional funds, subject to their availability and appropriation for that purpose, if required to complete the Work under this project if no additional

federal-aid funds will be made available for the project. This paragraph also applies to projects advertised and awarded by the State.

- c. If all or part of the construction work is to be accomplished by Local Agency personnel (i.e. by force account), rather than by a competitive bidding process, the Local Agency will ensure that all such force account work is accomplished in accordance with the pertinent State specifications and requirements with 23 CFR 635, Subpart B, Force Account Construction.
 - (1) Such work will normally be based upon estimated quantities and firm unit prices agreed to between the Local Agency and the State in advance of the Work, as provided for in 23 CFR 635.204(c). Such agreed unit prices shall constitute a commitment as to the value of the Work to be performed.
 - (2) An alternative to the above is that the Local Agency may agree to participate in the Work based on actual costs of labor, equipment rental, materials supplies and supervision necessary to complete the Work. Where actual costs are used, eligibility of cost items shall be evaluated for compliance with 48 CFR Part 31.
 - (3) Rental rates for publicly owned equipment will be determined in accordance with the State's Standard Specifications for Road and Bridge Construction § 109.04.
 - (4) All force account work shall have prior approval of the State and shall not be initiated until the State has issued a written notice to proceed.

C. State's obligations

1. The State will perform a final project inspection prior to project acceptance as a Quality Control/Assurance activity. When all Work has been satisfactorily completed, the State will sign a final acceptance form.
2. Notwithstanding any consents or approvals given by the State for the Plans, the State will not be liable or responsible in any manner for the structural design, details or construction of any major structures that are designed by or are the responsibility of the Local Agency as identified in the Scope of Work in **Exhibit A**, within the Work of this contract.

Section 8. ROW Acquisition and Relocation

If the Project includes right of way, prior to this project being advertised for bids, the Responsible Party will certify in writing to the State that all right of way has been acquired in accordance with the applicable state and federal regulations, or that no additional right of way is required.

Any acquisition/relocation activities must comply with: all applicable federal and state statutes and regulations, including but not limited to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (P.L. 91-646) and the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs as amended (49 CFR Part 24); CDOT's Right of Way Manual; and CDOT's Policy and Procedural Directives.

Allocation of Responsibilities are as follows:

- Federal participation in right of way acquisition (3111 charges), relocation (3109 charges) activities, if any, and right of way incidentals (expenses incidental to acquisition/relocation of right of way – 3114 charges);
- Federal participation in right of way acquisition (3111 charges), relocation (3109 charges) but no participation in incidental expenses (3114 charges); or
- No federal participation in right of way acquisition (3111 charges) and relocation activities (3109 expenses).

Regardless of the option selected above, the State retains oversight responsibilities. The Local Agency's and the State's responsibilities for each option is specifically set forth in CDOT's Right of Way Manual. The manual is located at http://www.dot.state.co.us/ROW_Manual/.

If right of way is purchased for a state highway, including areas of influence of the state highway, the local agency shall immediately convey title to such right of way to CDOT after the local agency obtains title.

Section 9. Utilities

If necessary, the Responsible Party will be responsible for obtaining the proper clearance or approval from any utility company, which may become involved in this Project. Prior to this Project being advertised for bids, the Responsible Party will certify in writing to the State that all such clearances have been obtained.

Section 10. Railroads

In the event the Project involves modification of a railroad company's facilities whereby the Work is to be accomplished by railroad company forces, the Responsible Party shall make timely application to the Public Utilities Commission requesting its order providing for the installation of the proposed improvements and not proceed with that part of the Work without compliance. The Responsible Party shall also establish contact with the railroad

company involved for the purpose of complying with applicable provisions of 23 CFR 646, subpart B, concerning federal-aid projects involving railroad facilities, including:

- A. Executing an agreement setting out what work is to be accomplished and the location(s) thereof, and that the costs of the improvement shall be eligible for federal participation.
- B. Obtaining the railroad's detailed estimate of the cost of the Work.
- C. Establishing future maintenance responsibilities for the proposed installation.
- D. Proscribing future use or dispositions of the proposed improvements in the event of abandonment or elimination of a grade crossing.
- E. Establishing future repair and/or replacement responsibilities in the event of accidental destruction or damage to the installation.

Section 11. Environmental Obligations

The Local Agency shall perform all Work in accordance with the requirements of the current federal and state environmental regulations including the National Environmental Policy Act of 1969 (NEPA) as applicable.

Section 12. Maintenance Obligations

The Local Agency will maintain and operate the improvements constructed under this contract at its own cost and expense during their useful life, in a manner satisfactory to the State. The Local Agency will make proper provisions for such maintenance obligations each year. Such maintenance and operations shall be conducted in accordance with all applicable statutes, ordinances and regulations which define the Local Agency's obligations to maintain such improvements. The State will make periodic inspections of the project to verify that such improvements are being adequately maintained.

Section 13. Record Keeping

The Local Agency shall maintain a complete file of all records, documents, communications, and other written materials, which pertain to the costs incurred under this contract. The Local Agency shall maintain such records for a period of three (3) years after the date of termination of this contract or final payment hereunder, whichever is later, or for such further period as may be necessary to resolve any matters which may be pending. The Local Agency shall make such materials available for inspection at all reasonable times and shall permit duly authorized agents and employees of the State to inspect the project and to inspect, review and audit the project records.

Section 14. Termination Provisions

This contract may be terminated as follows:

- A. Termination for Convenience. The State may terminate this contract at any time the State determines that the purposes of the distribution of moneys under the contract would no longer be served by completion of the project. The State shall effect such termination by giving written notice of termination to the Local Agency and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination.
- B. Termination for Cause. If, through any cause, the Local Agency shall fail to fulfill, in a timely and proper manner, its obligations under this contract, or if the Local Agency shall violate any of the covenants, agreements, or stipulations of this contract, the State shall thereupon have the right to terminate this contract for cause by giving written notice to the Local Agency of its intent to terminate and at least ten (10) days opportunity to cure the default or show cause why termination is otherwise not appropriate. In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the Local Agency under this contract shall, at the option of the State, become its property, and the Local Agency shall be entitled to receive just and equitable compensation for any services and supplies delivered and accepted. The Local Agency shall be obligated to return any payments advanced under the provisions of this contract.

Notwithstanding the above, the Local Agency shall not be relieved of liability to the State for any damages sustained by the State by virtue of any breach of the contract by the Local Agency, and the State may withhold payment to the Local Agency for the purposes of mitigating its damages until such time as the exact amount of damages due to the State from the Local Agency is determined.

If after such termination it is determined, for any reason, that the Local Agency was not in default or that the Local Agency's action/inaction was excusable, such termination shall be treated as a termination for convenience, and the rights and obligations of the parties shall be the same as if the contract had been terminated for convenience, as described herein.

C. **Termination Due to Loss of Funding.** The parties hereto expressly recognize that the Local Agency is to be paid, reimbursed, or otherwise compensated with federal and/or State funds which are available to the State for the purposes of contracting for the Project provided for herein, and therefore, the Local Agency expressly understands and agrees that all its rights, demands and claims to compensation arising under this contract are contingent upon availability of such funds to the State. In the event that such funds or any part thereof are not available to the State, the State may immediately terminate or amend this contract.

Section 15. Legal Authority

The Local Agency warrants that it possesses the legal authority to enter into this contract and that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this contract and to bind the Local Agency to its terms. The person(s) executing this contract on behalf of the Local Agency warrants that such person(s) has full authorization to execute this contract.

Section 16. Representatives and Notice

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

If to State

If to the Local Agency

CDOT Region: 2	City of Pueblo
Don Scanga	Kelly Grisham
Project Manager	Project Coordinator
5615 Wills Blvd	211 East D Street
Pueblo, CO 81008	Pueblo, CO 81003
719-621-8340	719-553-2254

Section 17. Successors

Except as herein otherwise provided, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

Section 18. Third Party Beneficiaries

It is expressly understood and agreed that the enforcement of the terms and conditions of this contract and all rights of action relating to such enforcement, shall be strictly reserved to the State and the Local Agency. Nothing contained in this contract shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the State and the Local Agency that any such person or entity, other than the State or the Local Agency receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

Section 19. Governmental Immunity

Notwithstanding any other provision of this contract to the contrary, no term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S., as now or hereafter amended. The parties understand and agree that liability for claims for injuries to persons or property arising out of negligence of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of § 24-10-101, et seq., C.R.S., as now or hereafter amended and the risk management statutes, §§ 24-30-1501, et seq., C.R.S., as now or hereafter amended.

Section 20. Severability

To the extent that this contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the contract, the terms of this contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.

Section 21. Waiver

The waiver of any breach of a term, provision, or requirement of this contract shall not be construed or deemed as a waiver of any subsequent breach of such term, provision, or requirement, or of any other term, provision or requirement.

Section 22. Entire Understanding

This contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein by writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a writing executed and approved pursuant to the State Fiscal Rules.

Section 23. Survival of Contract Terms

Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this contract and the exhibits and attachments hereto which may require continued performance, compliance or effect beyond the termination date of the contract shall survive such termination date and shall be enforceable by the State as provided herein in the event of such failure to perform or comply by the Local Agency.

Section 24. Modification and Amendment

This contract is subject to such modifications as may be required by changes in federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this contract on the effective date of such change as if fully set forth herein. Except as provided above, no modification of this contract shall be effective unless agreed to in writing by both parties in an amendment to this contract that is properly executed and approved in accordance with applicable law.

Section 25. Disputes

Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement will be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, the Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of the Department of Transportation. In connection with any appeal proceeding under this clause, the Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Local Agency shall proceed diligently with the performance of the contract in accordance with the Chief Engineer's decision. The decision of the Executive Director or his duly authorized representative for the determination of such appeals will be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this contract, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

Section 26. Statewide Contract Management System

If the maximum amount payable to Contractor under this Contract is \$100,000 or greater, either on the Effective Date or at any time thereafter, this **§Statewide Contract Management System** applies. Contractor agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state contracts and inclusion of contract performance information in a statewide contract management system.

Contractor's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Contract, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Contractor's performance shall be part of the normal contract administration process and Contractor's performance will be systematically recorded in the statewide Contract Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Contractor's obligations under this Contract shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Contractor's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Contract term. Contractor shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that Contractor demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by the Department of Transportation and showing of good

cause, may debar Contractor and prohibit Contractor from bidding on future contracts. Contractor may contest the final Evaluation, Review and Rating by: **(a)** filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or **(b)** under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Contractor, by the Executive Director, upon showing of good cause.

Section 27. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3).

These Special Provisions apply to all contracts except where noted in italics.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

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

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. COMPLIANCE WITH LAW.

Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

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Section 28. SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

*** Persons signing for the Local Agency hereby swear and affirm that they are authorized to act on the Local Agency's behalf and acknowledge that the State is relying on their representations to that effect.**

THE LOCAL AGENCY CITY OF PUEBLO Name: _____ (print name) Title: _____ (print title) _____ *Signature Date: _____	STATE OF COLORADO Jared S. Polis Department of Transportation By _____ Stephen Harelson, P.E., Chief Engineer (For) Shoshana M. Lew, Executive Director Date: _____
2nd Local Agency Signature if needed Name: _____ (print name) Title: _____ (print title) _____ *Signature Date: _____	STATE OF COLORADO LEGAL REVIEW Philip J. Weiser, Attorney General By _____ Signature – Assistant Attorney General Date: _____

ALL AGREEMENTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Agreements. This Agreement is not valid until signed and dated below by the State Controller or delegate. The Local Agency is not authorized to begin performance until such time. If the Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay the Local Agency for such performance or for any goods and/or services provided hereunder.

STATE OF COLORADO STATE CONTROLLER Robert Jaros, CPA, MBA, JD By: _____ Colorado Department of Transportation Date: _____

EXHIBIT A
SCOPE OF WORK

Name of Project: Pueblo Westside Trail (Wildhorse)
Project Number: MTF M086-098
SubAccount #: 25192

1. General Description

The local agency shall be responsible for design and construction of an off-street trail connection from West 18th Street to West 24th Street along the Wildhorse Creek Arroyo, Project M086-089, (25192). The project will include the planning, surveying and design and construction of a 10' wide concrete multi-use trail. At grade sidewalk and curb ramp improvements are anticipated on 18th Street and 24th Street. The project will also include lighting, grading and signage.

The majority of the trail will be constructed within existing unimproved public rights-of-way; however, a portion of the trail will be constructed within private property. Where the trail will encroach onto private property, permanent easement acquisition will be necessary.

2. Definitions

3. Personnel

3.1. Responsible Administrator.

The Local Agency's performance hereunder shall be under the direct supervision of the project manager identified in §16 of the Agreement.

3.2. Replacement

The Local Agency shall immediately notify the State if any key personnel cease to serve and seek its approval. Such notice shall specify why the change is necessary, who the proposed replacement is, what their qualifications are, and when the change would take effect. Anytime key personnel cease to serve, the State, in its sole discretion, may direct the Local Agency to suspend performance on the Work until such time as their replacements are approved. All notices sent under this subsection shall be sent in accordance with §16 of the Agreement.

4. Administrative Requirements

At all times from the effective date of this Agreement until completion of the Work, the Local Agency shall maintain properly segregated books of State Agreement funds, matching funds, and other funds associated with the Work. All receipts and expenditures associated with said Work shall be documented in a detailed and specific manner, and shall accord with the Work Budget set forth herein.

5. Monitoring

The State shall monitor this Work on an as-needed basis. The State may choose to audit the business activities performed under this Agreement. The Local Agency shall maintain a complete file of all records, documents, communications, notes and other written materials or electronic media, files or communications, which pertain in any manner to the operation of activities undertaken pursuant to an executed Agreement. Such books and records shall contain documentation of the participant's pertinent activity under this Agreement in a form consistent with good accounting practice.

By accepting funds for this Scope of Work, Local Agency acknowledges, understands, and accepts the continuing responsibility for the safety of the traveling public after initial acceptance of the project. **Local Agency is responsible for maintaining and operating the scope of work described in this Exhibit A constructed under this Agreement at its own cost and expense during its useful life.**

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK

EXHIBIT B
LOCAL AGENCY RESOLUTION (IF APPLICABLE)

EXHIBIT C- FUNDING PROVISIONS

Pueblo MTF 086-098 (25192)

A. Cost of Work Estimate

The Local Agency has estimated the total cost the Work to be \$850,000.00, which is to be funded as follows:

1. FUNDING			
MTF M086-098 (25192)			
a.	State Funds		
	(100% MMOF Award)		\$850,000.00
b.	Local Agency Funds		
	(0.00% MMOF Award)		\$0.00
TOTAL FUNDS ALL SOURCES			\$850,000.00
2. ESTIMATED PAYMENT TO LOCAL AGENCY			
a.	State Funds Budgeted		\$850,000.00
b.	Less Estimated State Share of CDOT-Incurred Costs		\$0.00
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY		100.00%	\$850,000.00
TOTAL ESTIMATED FUNDING BY LOCAL AGENCY		0.00%	\$0.00
TOTAL PROJECT ESTIMATED FUNDING		100.00%	\$850,000.00
3. FOR CDOT ENCUMBRANCE PURPOSES			
MTF M086-098 (25192)			
a.	Total Encumbrance Amount (Only State funds are encumbered)		\$850,000.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109		\$0.00
NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS			\$850,000.00

Note: No funds are currently available. Design and Construction funds will become available after execution of an Option letter (Exhibit D) or formal Amendment.

WBS Element 25192.10.30	Performance Period Start*/End Date	Design 3020	\$0.00
	N/A		
WBS Element 25192.20.10	Performance Period Start*/End Date	Const. 3301	\$0.00
	N/A		

*For MTF M086-098 (25192) *The Local Agency should not begin work until both of the following are in place: 1) the execution of the document encumbering funds for the respective phase; and 2) Local Agency receipt of the official Notice to Proceed. Any work performed before these two (2) milestones are achieved will not be reimbursable.

B. Funding Ratios

Project MTF M086-098 (25192)

The funding ratio for the State funds for this Work is 100% State funds to 0% Local Agency funds, and this ratio applies only to the \$850,000.00 that is eligible for State funding. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds \$850,000.00, and additional State funds are available for the Work, the Local Agency shall pay 0% of all such costs eligible for State funding and 100% of all other costs. If additional State funds are not available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than \$850,000.00, then the amounts of Local Agency and State funds will be decreased in accordance with the funding ratio described herein. **This applies to the entire scope of Work.**

C. Maximum Amount Payable

Project MTF M086-098 (25192)

The maximum amount payable to the Local Agency under this Agreement shall be \$850,000.00. For CDOT

accounting purposes, the State funds of \$850,000.00 will be encumbered, but the Local Agency funds of \$0.00 will NOT be encumbered. The total budget of this project is \$850,000.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency's awarded Agreement is less than the budgeted total of the State funds and the Local Agency funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 6 of this contract. **This applies to the entire scope of Work.**

Exhibit D

SAMPLE OPTION LETTER

(This option has been created by the Office of the State Controller for CDOT use only)

NOTE: This option is limited to the specific contract scenarios listed below AND may be used in place of exercising a formal amendment.

Date:	State Fiscal Year:	Option Letter No.	Option Letter CMS Routing # Option Letter OLA #
Original Contract CMS #		Original Contract #	

Vendor name:

SUBJECT:

Option to unilaterally authorize the Local Agency to begin a phase which may include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous ONLY (*does not apply to Acquisition/Relocation or Railroads*) and to update encumbrance amounts (*a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.*).

Option to unilaterally transfer funds from one phase to another phase (a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

Option to unilaterally do both A and B (a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

Option to extend the term of this Agreement.

REQUIRED PROVISIONS:

Option A (*Insert the following language for use with the Option A*):

In accordance with the terms of the original Agreement (*insert CMS routing # of the original Agreement*) between the State of Colorado, Department of Transportation and (*insert the Local Agency's name here*), the State hereby exercises the option to authorize the Local Agency to begin a phase that will include (*describe which phase will be added and include all that apply – Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous*) and to encumber previously budgeted funds for the phase based upon changes in funding availability and authorization. The encumbrance for (*Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous*) is (*insert dollars here*). A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (*The following is a NOTE only, please delete when using this option. Future changes for this option for Exhibit C shall be labeled as follows: C-2, C-3, C-4, etc.*).

Option B (*Insert the following language for use with Option B*):

In accordance with the terms of the original Agreement (*insert CMS # of the original Agreement*) between the State of Colorado, Department of Transportation and (*insert the Local Agency's name here*), the State hereby exercises the option to transfer funds from (*describe phase from which funds will be moved*) to (*describe phase to which funds will be moved*) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (*The following is a NOTE only so please delete when using this option: future changes for this option for Exhibit C shall be labeled as follows: C*

2, C-3, C-4, etc.).

Option C (*Insert the following language for use with Option C*):

In accordance with the terms of the original Agreement (*insert CMS routing # of original Agreement*) between the State of Colorado, Department of Transportation and (*insert the Local Agency's name here*), the State hereby exercises the option to 1) release the Local Agency to begin a phase that will include (*describe which phase will be added and include all that apply – Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous*); 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from (*describe phase from which funds will be moved*) to (*describe phase to which funds will be moved*) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (*The following is a NOTE only so please delete when using this option: future changes for this option for **Exhibit C** shall be labeled as follows: C-2, C-3, C- 4, etc.*).

(*The following language must be included on options A, B and C*):

The total encumbrance as a result of this option and all previous options and/or amendments is now (*insert total encumbrance amount*), as referenced in **Exhibit (C-1, C-2, etc., as appropriate)**. The total budgeted funds to satisfy services/goods ordered under the Agreement remains the same: (*indicate total budgeted funds*) as referenced in **Exhibit (C-1, C-2, etc., as appropriate)** of the original Agreement.

The effective date of this option letter is upon approval of the State Controller or delegate.

APPROVALS:

State of Colorado:

Jared S. Polis, Governor

By: Date:

Executive Director, Colorado Department of Transportation

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Agreement is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If the Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay the Local Agency for such performance or for any goods and/or services provided hereunder.

State Controller Robert Jaros, CPA, MBA, JD

By: Date:

EXHIBIT E

PII Certification

STATE OF COLORADO

**LOCAL AGENCY CERTIFICATION FOR ACCESS TO PII THROUGH A
DATABASE OR AUTOMATED NETWORK**

Pursuant to § 24-74-105, C.R.S., I, _____, on behalf of _____ (legal name of Local Agency) (the “Local Agency”), hereby certify under the penalty of perjury that the Local Agency has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

I hereby represent and certify that I have full legal authority to execute this certification on behalf of the Local Agency.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

GRANT CERTIFICATION

To: Heather Graham, President of the City Council
Nicholas Gradisar, Mayor

Re: Multimodal Transportation & Mitigation Options Funding

I hereby certify that I have reviewed and am familiar with the attached documents, and to the best of my knowledge and belief, the City has the present ability to comply with all special conditions, certifications and assurances therein contained.

Name (print) Kelly Grisham

12/14/22

Date

Title: Senior Planner



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 27, 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 ESTABLISHING PROJECT PL2202, LAKE AVENUE AND ORMAN AVENUE ROUNDABOUT PROJECT, AND APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT), PROJECT: SHO M086-097 (25101) IN THE AMOUNT OF \$1,350,000, TRANSFERRING \$150,000 FROM CI2204 TO PL2202, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$1,500,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance creates Project PL2202 for Lake Avenue and Orman Avenue Roundabout Project, and approves an Intergovernmental Agreement ("IGA") between Pueblo, a Colorado Municipal Corporation ("City") and the State of Colorado, Colorado Department of Transportation ("CDOT") relating to the Highway Safety Improvement Program Grant in the amount of \$1,350,000.00, transfers funds in the amount of \$150,000.00 for the required 10% match, and budgets and appropriates funds totaling \$1,500,000.00 for the Project.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

This Ordinance establishes the Lake Avenue and Orman Avenue Roundabout Project PL2202 and approves the grant agreement between the City and CDOT.

The City submitted a Highway Safety Improvement Program grant for improvements at the intersection of Lake Avenue and Orman Avenue in 2022. Despite the fact this is a signalized intersection, 77% of the crashes were broadsides (front to side). Because of the high percentage of broadsides at this intersection, it is a good candidate for a roundabout. The Federal Highway Administration has identified the roundabout

construction as one of the most significant accident countermeasure concepts and current speed studies of existing Pueblo roundabouts have shown average speeds in the low 20 miles per hour (MPH) range.

The intersection of Lake Avenue and Orman Avenue is in close proximity to Pueblo Central High School. This improvement will enhance the safety of drivers, bicyclists, and pedestrians of all ages and abilities.

Each approach to this intersection has 100 feet of Right-of-Way (ROW), which should be sufficient room to construct an urban single-lane roundabout without encroaching on existing sidewalks, structures, or private property.

FINANCIAL IMPLICATIONS:

The matching funds in the amount of \$150,000.00 are being transferred from Project CI2204 to PL2202. Funds in the amount of \$1,500,000.00 shall be budgeted and appropriated for Project PL2202.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Currently, there are no alternatives for completing the improvements without the funding from the Highway Safety Improvements Program funds.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. Grant Certification Lake and Orman Roundabout
2. Lake and Orman Roundabout Draft IGA

ORDINANCE NO.

AN ORDINANCE ESTABLISHING PROJECT PL2202, LAKE AVENUE AND ORMAN AVENUE ROUNDABOUT PROJECT, AND APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT), PROJECT: SHO M086-097 (25101) IN THE AMOUNT OF \$1,350,000, TRANSFERRING \$150,000 FROM CI2204 TO PL2202, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$1,500,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Lake Avenue and Orman Avenue Roundabout Project PL2202, is hereby established.

SECTION 2.

The Intergovernmental Agreement ("IGA") between the City of Pueblo, a Colorado Municipal Corporation, and the State of Colorado, acting with and through the Colorado Department of Transportation (CDOT), Project: SHO M086-097 (25101), Lake Avenue and Orman Avenue Roundabout Project, a copy of which is attached, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

Funds in the amount of \$150,000.00 are hereby transferred from Project CI2204 to Project PL2202, Lake Avenue and Orman Avenue Roundabout Project and budgeted and appropriated for the Lake Avenue and Orman Avenue Roundabout Project PL2202.

SECTION 4.

Subject to encumbrances by the Colorado State Department of Transportation (CDOT), and funds from the Highway Safety Improvement Program SHO M086-097 (25101) in the amount of \$1,350,000.00 are hereby budgeted and appropriated for the Lake Avenue and Orman Avenue Roundabout Project PL2202.

SECTION 5.

The Mayor is authorized to execute and deliver the IGA 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 6.

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

SECTION 7.

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

GRANT CERTIFICATION

To: Heather Graham, President of the City Council
Nicholas Gradisar, Mayor

Re: Highway Safety Improvement Program

I hereby certify that I have reviewed and am familiar with the attached documents, and to the best of my knowledge and belief, the City has the present ability to comply with all special conditions, certifications and assurances therein contained.

Name (print) Kelly Grisham

12/14/22

Date

Title: Senior Planner

STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT

Signature and Cover Page

State Agency Department of Transportation			Agreement Routing Number 23-HA2-XC-00138
Local Agency CITY OF PUEBLO			Agreement Effective Date The later of the effective date or October 10, 2022
Agreement Description LAKE AVENUE AND ORMAN AVENUE ROUNDAABOUT			Agreement Expiration Date October 09, 2032
Project # SHO M086- 097 (25101)	Region # 2	Contract Writer VJM	Agreement Maximum Amount \$1,500,000.00

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement and to bind the Party authorizing his or her signature.

LOCAL AGENCY CITY OF PUEBLO _____ Signature By: Nicholas A. Gradisar, Mayor Date: _____	STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director _____ Stephen Harelson, P.E., Chief Engineer Date: _____
2nd State or Local Agency Signature if Needed Attested By: _____ Signature By: Marisa Stoller, City Clerk Date: _____	LEGAL REVIEW Philip J. Weiser, Attorney General _____ Assistant Attorney General By: (Print Name and Title) Date: _____
In accordance with §24-30-202 C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD By: _____ Department of Transportation Effective Date: _____	

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1. PARTIES

This Agreement is entered into by and between Local Agency named on the Signature and Cover Page for this Agreement (“Local Agency”), and the STATE OF COLORADO acting by and through the State agency named on the Signature and Cover Page for this Agreement (the “State” or “CDOT”). Local Agency and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and Agreement Funds shall be expended within the dates shown in **Exhibit C** for each respective phase (“Phase Performance Period(s)”). The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Local Agency for any Work performed or expense incurred before 1) the Effective Date of this original Agreement; except as described in **§7.D**; 2) before the encumbering document for the respective phase *and* the official Notice to Proceed for the respective phase; or 3) after the Final Phase Performance End Date, as shown in **Exhibit C**. Additionally, the State shall have no obligation to pay Local Agency for any Work performed or expense incurred after the Agreement Expiration Date or after required billing deadline specified in **§7.B.i.e.**, or the expiration of “Special Funding” if applicable, whichever is sooner. The State’s obligation to pay Agreement Funds exclusive of Special Funding will continue until the Agreement Expiration Date. If Agreement Funds expire before the Agreement Expiration Date, then no payments will be made after expiration of Agreement Funds.

B. Initial Term and Extension

The Parties’ respective performances under this Agreement shall commence on the Agreement Effective Date shown on the Signature and Cover Page for this Agreement and shall terminate on as shown on the Signature and Cover Page for this Agreement, unless sooner terminated or further extended in accordance with the terms of this Agreement. Upon request of Local Agency, the State may, in its sole discretion, extend the term of this Agreement by Option Letter pursuant **§7.E.iv**. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in **Exhibit C**.

C. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, and this ARPA Award is not appropriated, or otherwise become unavailable to fund this ARPA Award the State, in its discretion, may terminate this Agreement in whole or in part. This subsection shall not apply to a termination of this Agreement by the State for breach by Local Agency, which shall be governed by **§14.A.i**.

i. Method and Content

The State shall notify Local Agency by providing written notice to Local Agency of the termination and be in accordance with **§16**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Local Agency shall be subject to **§14.A.i.a**

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Local Agency an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Agreement is less than 60% completed, as determined by the State, the State may reimburse Local Agency for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Local Agency which are directly attributable to the uncompleted portion of Local Agency’s obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Local Agency hereunder. This subsection shall not apply to a termination of this ARPA Award by the State for breach by Local Agency.

D. Local Agency Termination Under Federal Requirements

Local Agency may request termination of the ARPA Award by sending notice to the State, which includes the effective date of the termination. If this ARPA Award is terminated in this manner, then Local Agency shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. AUTHORITY

Authority to enter into this Agreement exists in the law as follows:

A. Federal Authority

Pursuant to Title I, Subtitle A, of the “Fixing America’s Surface Transportation Act” (FAST Act) of 2015, and to applicable provisions of Title 23 of the United States Code and implementing regulations at Title 23 of the Code of Federal Regulations, as may be amended, (collectively referred to hereinafter as the “Federal Provisions”), certain federal funds have been and are expected to continue to be allocated for transportation projects requested by Local Agency and eligible under the Surface Transportation Improvement Program that has been proposed by the State and approved by the Federal Highway Administration (“FHWA”).

Pursuant to Title VI of the Social Security Act, Section 602 of the “Coronavirus State and Local Fiscal Recovery Funds”, a part of the American Rescue Plan, provides state, local and Tribal governments with the resources needed to respond to the pandemic and its economic effects and to build a stronger, more equitable economy during the recovery.

B. State Authority

Pursuant to CRS §43-1-223 and to applicable portions of the Federal Provisions, the State is responsible for the general administration and supervision of performance of projects in the Program, including the administration of federal funds for a Program project performed by a Local Agency under a contract with the State. This Agreement is executed under the authority of CRS §§29-1-203, 43-1-110; 43-1-116, 43-2-101(4)(c) and 43-2-104.5.

4. PURPOSE

The purpose of this Agreement is to disburse Federal funds to the Local Agency pursuant to CDOT’s Stewardship Agreement with the FHWA and/or USDT as shown in **Exhibit C**.

5. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. “**Agreement**” means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. “**Agreement Funds**” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- C. “**ARPA**” means American Rescue Plan Act, funded by the US Department of the Treasury (“USDT”). See “SLFRF” below.
- D. “**Award**” means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- E. “**Budget**” means the budget for the Work described in **Exhibit C**.
- F. “**Business Day**” means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1) C.R.S..
- G. “**Chief Procurement Officer**” means the individual to whom the Executive Director has delegated his or her authority pursuant to §24-102-202 to procure or supervise the procurement of all supplies and services needed by the State.
- H. “**CJI**” means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under §24-72-302, C.R.S.
- I. “**Consultant**” means a professional engineer or designer hired by Local Agency to design the Work Product.
- J. “**Contractor**” means the general construction contractor hired by Local Agency to construct the Work.

- K. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.
- L. **“Effective Date”** means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for this Agreement.
- M. **“Evaluation”** means the process of examining Local Agency’s Work and rating it based on criteria established in **§6, Exhibit A** and **Exhibit E**.
- N. **“Exhibits”** means the following exhibits attached to this Agreement:
- i. **Exhibit A**, Scope of Work.
 - ii. **Exhibit B**, Sample Option Letter.
 - iii. **Exhibit C**, Funding Provisions
 - iv. **Exhibit D**, Local Agency Resolution
 - v. **Exhibit E**, Local Agency Contract Administration Checklist
 - vi. **Exhibit F**, Certification for Federal-Aid Contracts
 - vii. **Exhibit G**, Disadvantaged Business Enterprise
 - viii. **Exhibit H**, Local Agency Procedures for Consultant Services
 - ix. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts
 - x. **Exhibit J**, Additional Federal Requirements
 - xi. **Exhibit K**, The Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions
 - xii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form
 - xiii. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the “Uniform Guidance”)
 - xiv. **Exhibit N**, Federal Treasury Provisions
 - xv. **Exhibit O**, Agreement with Subrecipient of Federal Recovery Funds
 - xvi. **Exhibit P**, SLFRF Subrecipient Quarterly Report
 - xvii. **Exhibit Q**, SLFRF Reporting Modification Form
 - xviii. **Exhibit R**, Applicable Federal Awards
 - xix. **Exhibit S**, PII Certification
 - xx. **Exhibit T**, Checklist of Required Exhibits Dependent on Funding Source
- O. **“Expiration Date”** means the date on which this Agreement expires, as shown on the Signature and Cover Page for this Agreement.
- P. **“Extension Term”** means the period of time by which the ARPA Expiration Date is extended by the State through delivery of an updated ARPA Letter.
- Q. **“Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- R. **“Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. The US Department of the Treasury is the Federal Awarding Agency for the Federal Award, which may be the subject of this Agreement.
- S. **“FHWA”** means the Federal Highway Administration, which is one of the twelve administrations under the Office of the Secretary of Transportation at the U.S. Department of Transportation. FHWA provides stewardship over the construction, maintenance and preservation of the Nation’s highways and tunnels. FHWA is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.
- T. **“Goods”** means any movable material acquired, produced, or delivered by Local Agency as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Local Agency in connection with the Services.

- U. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- V. **“Initial Term”** means the time period defined in **§2.B**.
- W. **“Local Funds”** means the funds provided by the Local Agency as their obligated contribution to the federal and/or State Awards to receive the federal and/or State funding.
- X. **“Notice to Proceed”** means the letter issued by the State to the Local Agency stating the date the Local Agency can begin work subject to the conditions of this Agreement.
- Y. **“OMB”** means the Executive Office of the President, Office of Management and Budget.
- Z. **“Oversight”** means the term as it is defined in the Stewardship Agreement between CDOT and the FHWA.
- AA. **“Party”** means the State or Local Agency, and **“Parties”** means both the State and Local Agency.
- BB. **“PCI”** means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law.
- CC. **“PHI”** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: **(i)** that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and **(ii)** that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.
- DD. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501 C.R.S. “PII” shall also mean “personal identifying information” as set forth at § 24-74-102, et. seq., C.R.S.
- EE. **“Recipient”** means the Colorado Department of Transportation (CDOT) for this Federal Award.
- FF. **“Services”** means the services to be performed by Local Agency as set forth in this Agreement and shall include any services to be rendered by Local Agency in connection with the Goods.
- GG. **“SLFRF”** means State and Local Fiscal Recovery Funds, provided by ARPA, funded by the US Treasury Department.
- HH. **“Special Funding”** means an award by Federal agency or the State which may include but is not limited to one or a combination of Multimodal Transportation & Mitigation Options Funding, Revitalizing Main Streets, Safer Main Streets, Stimulus Funds, Coronavirus Response and Relief Supplemental Funds, ARPA, SLFRF, or COVID Relief.
- II. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII and State personnel records not subject to disclosure under CORA.
- JJ. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a).
- KK. **“State Fiscal Year”** means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- LL. **“State Purchasing Director”** means the position described in the Colorado Procurement Code and its implementing regulations.

- MM. “**State Records**” means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- NN. “**Sub-Award**” means this Award by the State to Local Agency funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to this Sub-Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- OO. “**Subcontractor**” means third parties, if any, engaged by Local Agency to aid in performance of the Work.
- PP. “**Subrecipient**” means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a Federal program but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency.
- QQ. “**Tax Information**” means Federal and State of Colorado tax information including, without limitation, Federal and State tax returns, return information, and such other tax-related information as may be protected by Federal and State law and regulation. Tax Information includes but is not limited to all information defined as Federal tax Information in Internal Revenue Service Publication 1075.
- RR. “**Uniform Guidance**” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.
- SS. “**USDT**” The United States Department of the Treasury (**USDT**) is the national treasury and finance department of the federal government of the United States where it serves as an executive department. The USDT funds ARPA.
- TT. “**Work**” means the delivery of the Goods and performance of the Services in compliance with CDOT’s Local Agency Manual described in this Agreement.
- UU. “**Work Product**” means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Agreement that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

6. SCOPE OF WORK

Local Agency shall complete the Work as described in this Agreement and in accordance with the provisions of **Exhibit A**, and the Local Agency Manual. The State shall have no liability to compensate Local Agency for the delivery of any Goods or the performance of any Services that are not specifically set forth in this Agreement. Work may be divided into multiple phases that have separate periods of performance. The State may not compensate for Work that Local Agency performs outside of its designated phase performance period. The performance period of phases, including, but not limited to Design, Construction, Right of Way, Utilities, or Environment phases, are identified in **Exhibit C**. The State may unilaterally modify **Exhibit C** from time to time, at its sole discretion, to extend the Agreement Expiration Date and/or to extend the period of performance for a phase of Work authorized under this Agreement. To exercise these options to extend the Agreement Expiration Date and/or to update the phase performance period extension option, the State will provide written notice to Local Agency in a form substantially equivalent to **Exhibit B**. The State’s unilateral extension of the Agreement Expiration Date and/or the phase performance periods will not amend or alter in any way the funding provisions or any other terms specified in this Agreement, notwithstanding the options listed under **\$7.E**

A. Local Agency Commitments

i. Design

If the Work includes preliminary design, final design, design work sheets, or special provisions and estimates (collectively referred to as the “Plans”), Local Agency shall ensure that it and its Contractors comply with and are responsible for satisfying the following requirements:

- a. Perform or provide the Plans to the extent required by the nature of the Work.
 - b. Prepare final design in accordance with the requirements of the latest edition of the American Association of State Highway Transportation Officials (AASHTO) manual or other standard, such as the Uniform Building Code, as approved by the State.
 - c. Prepare provisions and estimates in accordance with the most current version of the State's Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction or Local Agency specifications if approved by the State.
 - d. Include details of any required detours in the Plans in order to prevent any interference of the construction Work and to protect the traveling public.
 - e. Stamp the Plans as produced by a Colorado registered professional engineer.
 - f. Provide final assembly of Plans and all other necessary documents.
 - g. Ensure the Plans are accurate and complete.
 - h. Make no further changes in the Plans following the award of the construction contract to Contractor unless agreed to in writing by the Parties. The Plans shall be considered final when approved in writing by CDOT, and when final, they will be deemed incorporated herein.
- ii. Local Agency Work
- a. Local Agency shall comply with the requirements of the Americans With Disabilities Act (ADA) 42 U.S.C. § 12101, et. seq., and applicable federal regulations and standards as contained in the document "ADA Accessibility Requirements in CDOT Transportation Projects".
 - b. Local Agency shall afford the State ample opportunity to review the Plans and shall make any changes in the Plans that are directed by the State to comply with FHWA requirements.
 - c. Local Agency may enter into a contract with a Consultant to perform all or any portion of the Plans and/or construction administration. Provided, however, if federal-aid funds are involved in the cost of such Work to be done by such Consultant, such Consultant contract (and the performance provision of the Plans under the contract) must comply with all applicable requirements of 23 C.F.R. Part 172 and with any procedures implementing those requirements as provided by the State, including those in **Exhibit H**. If Local Agency enters into a contract with a Consultant for the Work:
 - 1) Local Agency shall submit a certification that procurement of any Consultant contract complies with the requirements of 23 C.F.R. 172.5(1) prior to entering into such Consultant contract, subject to the State's approval. If not approved by the State, Local Agency shall not enter into such Consultant contract.
 - 2) Local Agency shall ensure that all changes in the Consultant contract have prior approval by the State and FHWA and that they are in writing. Immediately after the Consultant contract has been awarded, one copy of the executed Consultant contract and any amendments shall be submitted to the State.
 - 3) Local Agency shall require that all billings under the Consultant contract comply with the State's standardized billing format. Examples of the billing formats are available from the CDOT Agreements Office.
 - 4) Local Agency (and any Consultant) shall comply with 23 C.F.R. 172.5(b) and (d) and use the CDOT procedures described in **Exhibit H** to administer the Consultant contract.
 - 5) Local Agency may expedite any CDOT approval of its procurement process and/or Consultant contract by submitting a letter to CDOT from Local Agency's attorney/authorized representative certifying compliance with **Exhibit H** and 23 C.F.R. 172.5(b) and (d).
 - 6) Local Agency shall ensure that the Consultant contract complies with the requirements of 49 CFR 18.36(i) and contains the following language verbatim:
 - (a) The design work under this Agreement shall be compatible with the requirements of the contract between Local Agency and the State (which is incorporated herein by this

reference) 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 Local Agency to make such changes therein as the State determines necessary to comply with State and FHWA requirements.

iii. Construction

If the Work includes construction, Local Agency shall perform the construction in accordance with the approved design plans and/or administer the construction in accordance with **Exhibit E**. Such administration shall include Work inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving and securing the funding for contract modification orders and minor contract revisions; processing construction Contractor claims; construction supervision; and meeting the quality control requirements of the FHWA/CDOT Stewardship Agreement, as described in **Exhibit E**.

- a. The State may, after providing written notice of the reason for the suspension to Local Agency, suspend the Work, wholly or in part, due to the failure of Local Agency or its Contractor to correct conditions which are unsafe for workers or for such periods as the State may deem necessary due to unsuitable weather, or for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by the State to be in the public interest.
- b. Local Agency shall be responsible for the following:
 - 1) Appointing a qualified professional engineer, licensed in the State of Colorado, as Local Agency Project Engineer (LAPE), to perform engineering administration. The LAPE shall administer the Work in accordance with this Agreement, the requirements of the construction contract and applicable State procedures, as defined in the CDOT Local Agency Manual (https://www.codot.gov/business/designsupport/bulletins_manuals/2006-local-agency-manual).
 - 2) For the construction Services, advertising the call for bids, following its approval by the State, and awarding the construction contract(s) to the lowest responsible bidder(s).
 - (a) All Local Agency's advertising and bid awards pursuant to this Agreement shall comply with applicable requirements of 23 U.S.C. §112 and 23 C.F.R. Parts 633 and 635 and C.R.S. § 24-92-101 et seq. Those requirements include, without limitation, that Local Agency and its Contractor(s) incorporate Form 1273 (Exhibit I) in its entirety, verbatim, into any subcontract(s) for Services as terms and conditions thereof, as required by 23 C.F.R. 633.102(e).
 - (b) Local Agency may accept or reject the proposal of the apparent low bidder for Work on which competitive bids have been received. Local Agency must accept or reject such bids within three (3) working days after they are publicly opened.
 - (c) If Local Agency accepts bids and makes awards that exceed the amount of available Agreement Funds, Local Agency shall provide the additional funds necessary to complete the Work or not award such bids.
 - (d) The requirements of **§6.A.iii.b.2** also apply to any advertising and bid awards made by the State.

- (e) The State (and in some cases FHWA) must approve in advance all Force Account Construction, and Local Agency shall not initiate any such Services until the State issues a written Notice to Proceed.

iv. Right of Way (ROW) and Acquisition/Relocation

- a. If Local Agency purchases a ROW for a State highway, including areas of influence, Local Agency shall convey the ROW to CDOT promptly upon the completion of the project/construction.
- b. Any acquisition/relocation activities shall comply with all applicable federal and State statutes and regulations, including but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, as amended (49 C.F.R. Part 24), CDOT's Right of Way Manual, and CDOT's Policy and Procedural Directives.
- c. The Parties' respective responsibilities for ensuring compliance with acquisition, relocation and incidentals depend on the level of federal participation as detailed in CDOT's Right of Way Manual (located at <http://www.codot.gov/business/manuals/right-of-way>); however, the State always retains oversight responsibilities.
- d. The Parties' respective responsibilities at each level of federal participation in CDOT's Right of Way Manual, and the State's reimbursement of Local Agency costs will be determined pursuant the following categories:
 - 1) Right of way acquisition (3111) for federal participation and non-participation;
 - 2) Relocation activities, if applicable (3109);
 - 3) Right of way incidentals, if applicable (expenses incidental to acquisition/relocation of right of way – 3114).

v. Utilities

If necessary, Local Agency shall be responsible for obtaining the proper clearance or approval from any utility company that may become involved in the Work. Prior to the Work being advertised for bids, Local Agency shall certify in writing to the State that all such clearances have been obtained.

vi. Railroads

If the Work involves modification of a railroad company's facilities and such modification will be accomplished by the railroad company, Local Agency shall make timely application to the Public Utilities Commission ("PUC") requesting its order providing for the installation of the proposed improvements. Local Agency shall not proceed with that part of the Work before obtaining the PUC's order. Local Agency shall also establish contact with the railroad company involved for the purpose of complying with applicable provisions of 23 C.F.R. 646, subpart B, concerning federal-aid projects involving railroad facilities, and:

- a. Execute an agreement with the railroad company setting out what work is to be accomplished and the location(s) thereof, and which costs shall be eligible for federal participation.
- b. Obtain the railroad's detailed estimate of the cost of the Work.
- c. Establish future maintenance responsibilities for the proposed installation.
- d. Proscribe in the agreement the future use or dispositions of the proposed improvements in the event of abandonment or elimination of a grade crossing.
- e. Establish future repair and/or replacement responsibilities, as between the railroad company and the Local Agency, in the event of accidental destruction or damage to the installation.

vii. Environmental Obligations

Local Agency shall perform all Work in accordance with the requirements of current federal and State environmental regulations, including the National Environmental Policy Act of 1969 (NEPA) as applicable.

viii. Maintenance Obligations

Local Agency shall maintain and operate the Work constructed under this Agreement at its own cost and expense during their useful life, in a manner satisfactory to the State and FHWA. Local Agency shall conduct such maintenance and operations in accordance with all applicable statutes, ordinances, and regulations pertaining to maintaining such improvements. The State and FHWA may make periodic inspections to verify that such improvements are being adequately maintained.

ix. Monitoring Obligations

Local Agency shall respond in a timely manner to and participate fully with the monitoring activities described in **§7.F.vi.**

B. State's Commitments

- i. The State will perform a final project inspection of the Work as a quality control/assurance activity. When all Work has been satisfactorily completed, the State will sign the FHWA Form 1212.
- ii. Notwithstanding any consents or approvals given by the State for the Plans, the State shall not be liable or responsible in any manner for the structural design, details or construction of any Work constituting major structures designed by, or that are the responsibility of, Local Agency, as identified in **Exhibit E.**

7. PAYMENTS

A. Maximum Amount

Payments to Local Agency are limited to the unpaid, obligated balance of the Agreement Funds set forth in **Exhibit C.** The State shall not pay Local Agency any amount under this Agreement that exceeds the Agreement Maximum set forth in **Exhibit C.**

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Local Agency in the amounts and in accordance with conditions set forth in **Exhibit C.**
- b. Local Agency shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Local Agency and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Local Agency shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.
- e. If a project is funded in part with Federal or State special funding there may be an expiration date for the funds. The expiration date applies to grants and local funds used to match grants. To receive payment or credit for the match, Work must be completed or substantially completed, as outlined in the terms of the grant, prior to the expiration date of the special funding and invoiced in compliance with the rules outlined in the award of the funding. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.

ii. Interest

Amounts not paid by the State within 45 days after the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 46th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Local Agency shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of days interest to be paid and the interest rate.

iii. Payment Disputes

If Local Agency disputes any calculation, determination, or amount of any payment, Local Agency shall notify the State in writing of its dispute within 30 days following the earlier to occur of Local Agency's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Local Agency and may make changes to its determination based on this review. The calculation, determination, or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

- a. The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Local Agency beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Agreement Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Agreement Funds, the State's obligation to pay Local Agency shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Agreement Funds, and the State's liability for such payments shall be limited to the amount remaining of such Agreement Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in **§2.C**.
- b. If the agreement funds are terminated, the State can terminate the contract early. Payment due for work done to the date of termination will be processed in a manner consistent with **§2.C**.

v. Erroneous Payments

The State may recover, at the State's discretion, payments made to Local Agency in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Local Agency. The State may recover such payments by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Local Agency, or by any other appropriate method for collecting debts owed to the State. The close out of a Federal Award does not affect the right of FHWA or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period (as defined below in **§9.A.**).

vi. Federal Recovery

The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. Local Agency Funds

Local Agency shall provide their obligated contribution funds as outlined in **§7.A.** and **Exhibit C**. Local Agency shall have raised the full amount of their funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Local Agency's obligation to pay all or any part of any matching funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Local Agency and paid into Local Agency's treasury. Local Agency represents to the State that the amount designated "Local Agency Funds" in **Exhibit C** has been legally appropriated for the purpose of this Agreement by its authorized representatives and paid into its treasury. Local Agency may evidence such obligation by an appropriate ordinance/resolution or other authority letter expressly authorizing Local Agency to enter into this Agreement and to expend its match share of the Work. A copy of any such ordinance/resolution or authority letter is attached hereto as **Exhibit D** if applicable. Local Agency does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of

Local Agency. Local Agency shall not pay or be liable for any claimed interest, late charges, fees, taxes, or penalties of any nature, except as required by Local Agency's laws or policies.

D. Reimbursement of Local Agency Costs

The State shall reimburse Local Agency's allowable costs, not exceeding the maximum total amount described in **Exhibit C** and §7. However, any costs incurred by Local Agency prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. The State shall pay Local Agency for costs or expenses incurred or performance by the Local Agency prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules, and regulations applicable to the Work provide for such retroactive payments to the Local Agency. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Agreement. The applicable principles described in 2 C.F.R. Part 200 shall govern the State's obligation to reimburse all costs incurred by Local Agency and submitted to the State for reimbursement hereunder, and Local Agency shall comply with all such principles. The State shall reimburse Local Agency for the federal-aid share of properly documented costs related to the Work after review and approval thereof, subject to the provisions of this Agreement and **Exhibit C**. Local Agency costs for Work performed prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. Local Agency costs for Work performed after any Performance Period End Date for a respective phase of the Work, is not reimbursable. Allowable costs shall be:

- i. Reasonable and necessary to accomplish the Work and for the Goods and Services provided.
- ii. Actual net cost to Local Agency (i.e. the price paid minus any items of value received by Local Agency that reduce the cost actually incurred).

E. Unilateral Modification of Agreement Funds Budget by State Option Letter

The State may, at its discretion, issue an "Option Letter" to Local Agency to add or modify Work phases in the Work schedule in **Exhibit C** if such modifications do not increase total budgeted Agreement Funds. Such Option Letters shall amend and update **Exhibit C**, Sections 2 or 4 of the Table, and sub-sections B and C of the **Exhibit C**. Option Letters shall not be deemed valid until signed by the State Controller or an authorized delegate. **This is NOT a Notice to Proceed.** Modification of **Exhibit C** by unilateral Option Letter is permitted only in the specific scenarios listed below. The State will exercise such options by providing Local Agency a fully executed Option Letter, in a form substantially equivalent to **Exhibit B**. Such Option Letters will be incorporated into this Agreement. This applies to the entire Scope of Work.

i. Option to Begin a Phase and/or Increase or Decrease the Encumbrance Amount

The State may require by Option Letter that Local Agency begin a new Work phase that may include Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous Work (but may not include Right of Way Acquisition/Relocation or Railroads) as detailed in **Exhibit A**. Such Option Letters may not modify the other terms and conditions stated in this Agreement and must decrease the amount budgeted and encumbered for one or more other Work phases so that the total amount of budgeted Agreement Funds remains the same. The State may also change the funding sources so long as the amount budgeted remains the same and the Local Agency contribution does not increase. The State may also issue a unilateral Option Letter to increase and/or decrease the total encumbrance amount of two or more existing Work phases, as long as the total amount of budgeted Agreement Funds remains the same, replacing the original Agreement Funding exhibit (**Exhibit C**) with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.).

ii. Option to Transfer Funds from One Phase to Another Phase.

The State may require or permit Local Agency to transfer Agreement Funds from one Work phase (Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous) to another phase as a result of changes to State, federal, and local match funding. In such case, the original funding exhibit (**Exhibit C**) will be replaced with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.) attached to the Option Letter. The Agreement Funds transferred from one Work phase to another are subject to the same terms and conditions stated in the original Agreement with the total budgeted Agreement Funds remaining the same. The State may unilaterally exercise this option by providing a

fully executed Option Letter to Local Agency within thirty (30) days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iii. Option to Exercise Options i and ii.

The State may require Local Agency to add a Work phase as detailed in **Exhibit A**, and encumber and transfer Agreement Funds from one Work phase to another. The original funding exhibit (**Exhibit C**) in the original Agreement will be replaced with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2, C-3**, etc.) attached to the Option Letter. The addition of a Work phase and encumbrance and transfer of Agreement Funds are subject to the same terms and conditions stated in the original Agreement with the total budgeted Agreement Funds remaining the same. The State may unilaterally exercise this option by providing a fully executed Option Letter to Local Agency within 30 days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iv. Option to Extend Agreement/Phase Term and/or modify the OMB Uniform Guidance. The State, at its discretion, shall have the option to extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. Any updated version of **Exhibit C** shall be attached to any executed Option Letter as **Exhibit C-1** (with subsequent exhibits labeled **C-2, C-3**, etc.). In order to exercise this option, the State shall provide written notice to the Local Agency in a form substantially equivalent to **Exhibit B**.

F. Accounting

Local Agency shall establish and maintain accounting systems in accordance with generally accepted accounting standards (a separate set of accounts, or as a separate and integral part of its current accounting scheme). Such accounting systems shall, at a minimum, provide as follows:

i. Local Agency Performing the Work

If Local Agency is performing the Work, it shall document all allowable costs, including any approved Services contributed by Local Agency or subcontractors, using payrolls, time records, invoices, contracts, vouchers, and other applicable records.

ii. Local Agency-Checks or Draws

Checks issued or draws made by Local Agency shall be made or drawn against properly signed vouchers detailing the purpose thereof. Local Agency shall keep on file all checks, payrolls, invoices, contracts, vouchers, orders, and other accounting documents in the office of Local Agency, clearly identified, readily accessible, and to the extent feasible, separate and apart from all other Work documents.

iii. State-Administrative Services

The State may perform any necessary administrative support services required hereunder. Local Agency shall reimburse the State for the costs of any such services from the budgeted Agreement Funds as provided for in **Exhibit C**. If FHWA Agreement Funds are or become unavailable, or if Local Agency terminates this Agreement prior to the Work being approved by the State or otherwise completed, then all actual incurred costs of such services and assistance provided by the State shall be reimbursed to the State by Local Agency at its sole expense.

iv. Local Agency-Invoices

Local Agency's invoices shall describe in detail the reimbursable costs incurred by Local Agency for which it seeks reimbursement, the dates such costs were incurred and the amounts thereof, and Local Agency shall not submit more than one invoice per month.

v. Invoicing Within 60 Days

The State shall not be liable to reimburse Local Agency for any costs invoiced more than 60 days after the date on which the costs were incurred, including costs included in Local Agency's final invoice. The State may withhold final payment to Local Agency at the State's sole discretion until completion of final audit. Any costs incurred by Local Agency that are not allowable under 2 C.F.R. Part 200 shall be Local Agency's responsibility, and the State will deduct such disallowed costs from any payments due to Local Agency. The State will not reimburse costs for Work performed after the Performance Period End Date for a respective Work phase. The State will not reimburse costs for Work performed prior to Performance

Period End Date, but for which an invoice is received more than 60 days after the Performance Period End Date.

vi. Risk Assessment & Monitoring

Pursuant to 2 C.F.R. 200.331(b), – CDOT will evaluate Local Agency's risk of noncompliance with federal statutes, regulations, and terms and conditions of this Agreement. Local Agency shall complete a Risk Assessment Form (**Exhibit L**) when that may be requested by CDOT. The risk assessment is a quantitative and/or qualitative determination of the potential for Local Agency's non-compliance with the requirements of the Federal Award. The risk assessment will evaluate some or all of the following factors:

- Experience: Factors associated with the experience and history of the Subrecipient with the same or similar Federal Awards or grants.
- Monitoring/Audit: Factors associated with the results of the Subrecipient's previous audits or monitoring visits, including those performed by the Federal Awarding Agency, when the Subrecipient also receives direct federal funding. Include audit results if Subrecipient receives single audit, where the specific award being assessed was selected as a major program.
- Operation: Factors associated with the significant aspects of the Subrecipient's operations, in which failure could impact the Subrecipient's ability to perform and account for the contracted goods or services.
- Financial: Factors associated with the Subrecipient's financial stability and ability to comply with financial requirements of the Federal Award.
- Internal Controls: Factors associated with safeguarding assets and resources, deterring and detecting errors, fraud and theft, ensuring accuracy and completeness of accounting data, producing reliable and timely financial and management information, and ensuring adherence to its policies and plans.
- Impact: Factors associated with the potential impact of a Subrecipient's non-compliance to the overall success of the program objectives.
- Program Management: Factors associated with processes to manage critical personnel, approved written procedures, and knowledge of rules and regulations regarding federal-aid projects.

Following Local Agency's completion of the Risk Assessment Tool (**Exhibit L**), CDOT will determine the level of monitoring it will apply to Local Agency's performance of the Work. This risk assessment may be re-evaluated after CDOT begins performing monitoring activities.

G. Close Out

Local Agency shall close out this Award within 90 days after the Final Phase Performance End Date. If SLFRF Funds are used the Local Agency shall close out that portion of the Award within 45 days after the ARPA Award Expiration Date. Close out requires Local Agency's submission to the State of all deliverables defined in this Agreement, and Local Agency's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. If FHWA or US Treasury has not closed this Federal Award within one (1) year and 90 days after the Final Phase Performance End Date due to Local Agency's failure to submit required documentation, then Local Agency may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

8. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to §19 or pursuant to any exhibit, for any contract having a term longer than 3 months, Local Agency shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than ten (10) Business Days following the end of each calendar quarter or at such time as otherwise specified by the State. If SLFRF Funds are used the report must be in the format of **Exhibit P**.

B. Litigation Reporting

If Local Agency is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Local Agency's ability to perform its obligations under this Agreement, Local Agency shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in **§16**.

C. Performance and Final Status

Local Agency shall submit all financial, performance and other reports to the State no later than 60 calendar days after the Final Phase Performance End Date or sooner termination of this Agreement, containing an Evaluation of Subrecipient's performance and the final status of Subrecipient's obligations hereunder.

D. Violations Reporting

Local Agency must disclose, in a timely manner, in writing to the State and FHWA, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. Penalties for noncompliance may include suspension or debarment (2 CFR Part 180 and 31 U.S.C. 3321).

9. LOCAL AGENCY RECORDS

A. Maintenance

Local Agency shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Local Agency shall maintain such records for a period (the "Record Retention Period") pursuant to the requirements of the funding source and for a minimum of three (3) years following the date of submission to the State of the final expenditure report, whichever is longer, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Local Agency in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three (3) years following final disposition of such property.

B. Inspection

Records during the Record Retention Period. Local Agency shall make Local Agency Records available during normal business hours at Local Agency's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two (2) Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State will monitor Local Agency's performance of its obligations under this Agreement using procedures as determined by the State. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work. Local Agency shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Local Agency. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work. If Local Agency enters into a subcontract with an entity that would also be considered a Subrecipient, then the subcontract entered into by Local Agency shall contain provisions permitting both Local Agency and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

D. Final Audit Report

Local Agency shall promptly submit to the State a copy of any final audit report of an audit performed on Local Agency's records that relates to or affects this Agreement or the Work, whether the audit is conducted

by Local Agency or a third party. Additionally, if Local Agency is required to perform a single audit under 2 CFR 200.501, *et seq.*, then Local Agency shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Local Agency shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Local Agency for the sole and exclusive benefit of the State, unless those State Records are otherwise publicly available at the time of disclosure or are subject to disclosure by Local Agency under CORA. Local Agency shall not, without prior written approval of the State, use for Local Agency's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Agreement. Local Agency shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Local Agency shall immediately forward any request or demand for State Records to the State's principal representative. If Local Agency or any of its Subcontractors will or may receive the following types of data, Local Agency or its Subcontractors shall provide for the security of such data according to the following: **(i)** the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Award as an Exhibit, if applicable, **(ii)** the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, **(iii)** the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and **(iv)** the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Award, if applicable. Local Agency shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Local Agency may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement. Local Agency shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Agreement, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Local Agency shall provide copies of those signed nondisclosure agreements to the State upon request.

C. Use, Security, and Retention

Local Agency shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Local Agency shall provide the State with access, subject to Local Agency's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Local Agency shall return State Records provided to Local Agency or destroy such State Records and certify to the State that it has done so, as directed by the State. If Local Agency is prevented by law or regulation from returning or destroying State Confidential Information, Local Agency warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Local Agency becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Local Agency can establish that none of Local Agency or any of its agents, employees, assigns, or Subcontractors are the cause or source of the Incident, Local Agency shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Local Agency shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which

may include, but is not limited to, developing, and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Safeguarding Personally Identifying Information "PII"

If Local Agency or any of its Subcontracts will or may receive PII under this agreement, Local Agency shall provide for the security for such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Local Agency shall be a "Third Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 et seq., C.R.S. In addition, as set forth in § 24-74-102, et. seq., C.R.S., Contractor, including, but not limited to, Contractor's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Contractor is given direct access to any State databases containing PII, Contractor shall execute, on behalf of itself and its employees, the certification attached hereto as **Exhibit S** on an annual basis Contractor's duty and obligation to certify as set forth in **Exhibit S** shall continue as long as Contractor has direct access to any State databases containing PII. If Contractor uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Contractor shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

11. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Local Agency shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of Local Agency under this Agreement. Such a conflict of interest would arise when a Local Agency or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement. Officers, employees, and agents of Local Agency may neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts.

B. Apparent Conflicts of Interest

Local Agency acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Local Agency shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Local Agency's obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Local Agency is uncertain whether a conflict or the appearance of a conflict has arisen, Local Agency shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

12. INSURANCE

Local Agency shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies with an AM Best rating of A-VIII or better.

A. Local Agency Insurance

Local Agency is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA") and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA.

B. Subcontractor Requirements

Local Agency shall ensure that each Subcontractor that is a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA. Local Agency shall ensure that each Subcontractor that is not a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement all of the following insurance policies:

i. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Local Agency or Subcontractor employees acting within the course and scope of their employment.

ii. General Liability

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.

iii. 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.

iv. Protected Information

Liability insurance covering all loss of State Confidential Information, 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.

v. 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.

vi. 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.

vii. Cyber/Network Security and Privacy Liability

Liability insurance covering all civil, regulatory and statutory damages, contractual damages, data breach management exposure, and any loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of breach, violation or infringement of right to privacy rights through improper use or disclosure of protect consumer data protection law, confidentiality or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

- a. \$1,000,000 each occurrence; and

- b. \$2,000,000 general aggregate.
- C. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Local Agency and Subcontractors. In the event of cancellation of any commercial general liability policy, the carrier shall provide at least 10 days prior written notice to CDOT.

- D. Primacy of Coverage

Coverage required of Local Agency and each Subcontractor shall be primary over any insurance or self-insurance program carried by Local Agency or the State.

- E. Cancellation

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 Local Agency and Local Agency shall forward such notice to the State in accordance with §16 within 7 days of Local Agency's receipt of such notice.

- F. Subrogation Waiver

All commercial insurance policies secured or maintained by Local Agency or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Local Agency or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

- G. Certificates

For each commercial insurance plan provided by Local Agency under this Agreement, Local Agency shall provide to the State certificates evidencing Local Agency's insurance coverage required in this Agreement within seven (7) Business Days following the Effective Date. Local Agency shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following the Effective Date, except that, if Local Agency's subcontract is not in effect as of the Effective Date, Local Agency shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following Local Agency's execution of the subcontract. No later than 15 days before the expiration date of Local Agency's or any Subcontractor's coverage, Local Agency shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Local Agency shall, within seven (7) Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this §12.

13. BREACH

- A. Defined

The failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner, shall be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization, or similar law, by or against Local Agency, or the appointment of a receiver or similar officer for Local Agency or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach.

- B. Notice and Cure Period

In the event of a breach, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §14 for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in the Agreement in order to protect the public interest of the State.

14. REMEDIES

- A. State's Remedies

If Local Agency is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in **§13.B**, shall have all of the remedies listed in this **§14.A**, in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of Local Agency's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Local Agency shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Local Agency shall not incur further obligations or render further performance past the effective date of such notice and shall terminate outstanding orders and subcontracts with third parties. However, Local Agency shall complete and deliver to the State all Work not canceled by the termination notice and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Local Agency shall assign to the State all of Local Agency's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Local Agency shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Local Agency but in which the State has an interest. At the State's request, Local Agency shall return materials owned by the State in Local Agency's possession at the time of any termination. Local Agency shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Local Agency for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Local Agency was not in breach or that Local Agency's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under **§2.C**.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Local Agency shall remain liable to the State for any damages sustained by the State in connection with any breach by Local Agency, and the State may withhold payment to Local Agency for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Local Agency is determined. The State may withhold any amount that may be due Local Agency as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Local Agency's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Local Agency to an adjustment in price or cost or an adjustment in the performance schedule. Local Agency shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Local Agency after the suspension of performance.

b. Withhold Payment

Withhold payment to Local Agency until Local Agency corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Local Agency's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal from the Work of any of Local Agency's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes a patent, copyright, trademark, trade secret, or other intellectual property right, Local Agency shall, as approved by the State (a) secure that right to use such Work for the State or Local Agency; (b) replace the Work with non infringing Work or modify the Work so that it becomes non infringing; or, (c) remove any infringing Work and refund the amount paid for such Work to the State.

B. Local Agency's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Local Agency, following the notice and cure period in §13.B and the dispute resolution process in §15 shall have all remedies available at law and equity.

15. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Local Agency for resolution.

B. Resolution of Controversies

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of CDOT as described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

C. Questions of Fact

Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement shall be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of CDOT. In connection with any appeal proceeding under this clause, Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, Local Agency shall proceed diligently with the performance of this Agreement in accordance with the Chief Engineer's decision. The decision of the Executive Director or his duly authorized representative for the determination of such appeals shall be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this Agreement, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

16. NOTICES AND REPRESENTATIVES

Each individual identified below shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered **(i)** by hand with receipt required, **(ii)** by certified or registered mail to such Party's principal representative at the address set forth below

or (iii) as an email with read receipt requested to the principal representative at the email address, if any, set forth below. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §16 without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

For the State

Colorado Department of Transportation (CDOT)
Don Scanga, Local Agency Coordinator
CDOT Region 2
5615 Wills Boulevard
Pueblo, CO 81008
719-621-8340
donald.scanga@state.co.us

For the Local Agency

CITY OF PUEBLO
Kelly Grisham, Project Coordinator
211 East D Street
PUEBLO, CO 81003
719-553-2254
kgrisham@pueblo.us

17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Local Agency hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Local Agency or any Subcontractors. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product. Whether or not Local Agency is under contract with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire.

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Local Agency hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that Local Agency cannot make any of the assignments required by this section, Local Agency hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents

In addition, Local Agency grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Local Agency that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

iii. Assignments and Assistance

Whether or not the Local Agency is under Agreement with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives, or other documents, drawings, models, materials, data, and information shall be the exclusive property of the State (collectively, "State Materials"). Local Agency shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Local Agency's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Local Agency shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Local Agency

Local Agency retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Local Agency including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Local Agency under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Local Agency Property"). Local Agency Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

18. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S. The following applies through June 30, 2022: no term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Local Agency under this Agreement is \$100,000 or greater, either on the Effective Date or at any time thereafter, this §19 shall apply. Local Agency agrees to be governed by and comply with the provisions of §24-106-103, §24-102-206, §24-106-106, §24-106-107 C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State's contract management system ("Contract Management System" or "CMS"). Local Agency's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

20. GENERAL PROVISIONS

A. Assignment

Local Agency's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Local Agency's rights and obligations approved by the State shall be subject to the provisions of this Agreement

B. Subcontracts

Local Agency shall not enter into any subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Local Agency shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Local Agency in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement.

C. Binding Effect

Except as otherwise provided in **§20.A**, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Digital Signatures

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

H. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

I. Jurisdiction and Venue

All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

J. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than contract amendments, shall conform to the policies promulgated by the Colorado State Controller.

K. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

L. Order of Precedence

In the event of a conflict or inconsistency between this Agreement and any exhibits or attachment such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- i. The provisions of the other sections of the main body of this Agreement.
- ii. **Exhibit N**, Federal Treasury Provisions.
- iii. **Exhibit F**, Certification for Federal-Aid Contracts.
- iv. **Exhibit G**, Disadvantaged Business Enterprise.
- v. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts.
- vi. **Exhibit J**, Additional Federal Requirements.
- vii. **Exhibit K**, Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions.
- viii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form.
- ix. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the “Uniform Guidance”).
- x. **Exhibit O**, Agreement with Subrecipient of Federal Recovery Funds.
- xi. **Exhibit R**, Applicable Federal Awards.
- xii. Colorado Special Provisions in the main body of this Agreement.
- xiii. **Exhibit A**, Scope of Work.
- xiv. **Exhibit H**, Local Agency Procedures for Consultant Services.
- xv. **Exhibit B**, Sample Option Letter.
- xvi. **Exhibit C**, Funding Provisions.
- xvii. **Exhibit P**, SLFRF Subrecipient Quarterly Report.
- xviii. **Exhibit Q**, SLFRF Reporting Modification Form.
- xix. **Exhibit D**, Local Agency Resolution.
- xx. **Exhibit E**, Local Agency Contract Administration Checklist.
- xxi. **Exhibit S**, PII Certification.
- xxii. **Exhibit T**, Checklist of Required Exhibits Dependent on Funding Source.
- xxiii. Other exhibits in descending order of their attachment.

M. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of the Agreement.

N. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of the Agreement shall survive the termination or expiration of the Agreement and shall be enforceable by the other Party.

O. Third Party Beneficiaries

Except for the Parties’ respective successors and assigns described in **§20.C**, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

P. Waiver

A Party’s failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107 C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

Local Agency shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in Local Agency's industry, trade, or profession.

S. Licenses, Permits, and Other Authorizations.

Local Agency shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

T. Compliance with State and Federal Law, Regulations, and Executive Orders

Local Agency shall comply with all State and Federal law, regulations, executive orders, State and Federal Awarding Agency policies, procedures, directives, and reporting requirements at all times during the term of this Agreement.

U. Accessibility

- i. Local Agency shall comply with and the Work Product provided under this Agreement shall be in compliance with all applicable provisions of §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability, as established by the Governor's Office of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Local Agency shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.
- ii. Each Party agrees to be responsible for its own liability incurred as a result of its participation in and performance under this Agreement. In the event any claim is litigated, each Party will be responsible for its own attorneys' fees, expenses of litigation, or other costs. No provision of this Agreement shall be deemed or construed to be a relinquishment or waiver of any kind of the applicable limitations of liability provided to either the Local Agency or the State by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq. and Article XI of the Colorado Constitution. Nothing in the Agreement shall be construed as a waiver of any provision of the State Fiscal Rules.
- iii. The State may require Local Agency's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Local Agency's Work Product and software is in compliance with §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

V. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), et seq., C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Local Agency. Local Agency shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Local Agency may wish to have in place in connection with this Agreement.

21. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts. Contractor refers to Local Agency.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

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

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the Parties, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. COMPLIANCE WITH LAW.

Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

22. FEDERAL REQUIREMENTS

Local Agency and/or their contractors, subcontractors, and consultants shall at all times during the execution of this Agreement strictly adhere to, and comply with, all applicable federal and State laws, and their implementing regulations, as they currently exist and may hereafter be amended. A summary of applicable federal provisions are attached hereto as **Exhibit F, Exhibit I, Exhibit J, Exhibit K, Exhibit M, Exhibit N** and **Exhibit O** are hereby incorporated by this reference.

23. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

Local Agency will comply with all requirements of **Exhibit G** and **Exhibit E**, Local Agency Contract Administration Checklist, regarding DBE requirements for the Work, except that if Local Agency desires to use its own DBE program to implement and administer the DBE provisions of 49 C.F.R. Part 26 under this Agreement, it must submit a copy of its program's requirements to the State for review and approval before the execution of this Agreement. If Local Agency uses any State- approved DBE program for this Agreement, Local Agency shall be solely responsible to defend that DBE program and its use of that program against all legal and other challenges or complaints, at its sole cost and expense. Such responsibility includes, without limitation, determinations concerning DBE eligibility requirements and certification, adequate legal and factual bases for DBE goals and good faith efforts. State approval (if provided) of Local Agency's DBE program does not waive or modify the sole responsibility of Local Agency for use of its program.

EXHIBIT A
SCOPE OF WORK

**City of Pueblo
Lake Ave and Orman Ave Roundabout
SHO M086-097
25101**

The Local Agency shall be responsible for design and construction of a traffic roundabout at the intersection of Lake Avenue and Orman Ave in the City of Pueblo. The roundabout shall provide a free flow condition for all turning movements and will eliminate the existing traffic signal.

The general scope of work includes, but is not limited to:

- Design of roundabout
- Removal of existing traffic signal
- Installation of curb and gutter, sidewalk, medians, curb ramps, pavement markings, signage, landscaping, etc.
- Asphalt pavement patching
- Any utility work that might be necessary
- Erosion and sediment control
- Traffic control
- Any other items pertinent to roundabout construction

Easements and/or right of way acquisition may be necessary. In addition, the pre-purchase of proprietary items, such as the detectable warning strips may assist with reducing lead times.

If ARPA funds are used all ARPA funds must be encumbered by December 31, 2024. All work funded by ARPA must be completed by December 31, 2026 and all bills must be submitted to CDOT for payment by January 31, 2027. These bills must be paid by CDOT by March 31, 2027.

If this project is funded with Multimodal Transportation & Mitigation Options Funding (MMOF) these funding expenditures must be invoiced by June 1st of the year they expire.

By accepting funds for this Scope of Work, Local Agency acknowledges, understands, and accepts the continuing responsibility for the safety of the traveling public after initial acceptance of the project. **Local Agency is responsible for maintaining and operating the scope of work described in this Exhibit A constructed under this Agreement at its own cost and expense during its useful life.**

EXHIBIT B

SAMPLE IGA OPTION LETTER

Date	State Fiscal Year	Option Letter No.
Project Code	Original Agreement #	

Vendor Name: _____

Option to unilaterally add phasing to include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous and to update encumbrance amount(s).

Option to unilaterally transfer funds from one phase to another phase.

Option to unilaterally add phasing to include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous, to update encumbrance amount(s), and to unilaterally transfer funds from one phase to another phase.

Option to unilaterally extend the performance of this Agreement and/or update a Work Phase Performance Period.

Option A

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency), the State hereby exercises the option to authorize the Local Agency to add a phase and to encumber funds for the phase based on changes in funding availability and authorization. The total encumbrance is (or increased) by \$0.00. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option B

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to transfer funds based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option C

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to 1) release the Local Agency to begin a phase; 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from phases based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option D

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option extend the performance of this Agreement and/or update a Work Phase Performance Period.

The total encumbrance as a result of this option and all previous options and/or amendments is now \$0.00, as referenced in **Exhibit C-1**. The total budgeted funds to satisfy services/goods ordered under the Agreement remains the same: as referenced in **Exhibit C-1**.

The effective date of this option letter is upon approval of the State Controller or delegate.

STATE OF COLORADO
Jared S. Polis
Department of Transportation

By: _____
Stephen Harelson, P.E., Chief Engineer
(For) Shoshana M. Lew, Executive Director

Date: _____

ALL AGREEMENTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Agreements. This Agreement is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If the Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay the Local Agency for such performance or for any goods and/or services provided hereunder.

STATE OF COLORADO
STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____
Colorado Department of Transportation

Date: _____

EXHIBIT C- FUNDING PROVISIONS**City of Pueblo SHO M086-097 (25101)****A. Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be \$1,500,000.00, which is to be funded as follows:

1. FUNDING		
SHO M086-097 (25101)		
a. Federal Funds (90% of HSIP Award)		\$1,350,000.00
b. Local Agency Funds (10% of HSIP Award)		\$150,000.00
TOTAL FUNDS ALL SOURCES		\$1,500,000.00
2. OMB UNIFORM GUIDANCE		
a. Federal Award Identification Number (FAIN):		TBD
b. Name of Federal Awarding Agency:		FHWA
c. Local Agency Unique Entity Identifier		NJK3BNUDRHJ7
d. Assistance Listing # Highway Planning and Construction		ALN 20.205
e. Is the Award for R&D?		No
f. Indirect Cost Rate (if applicable)		N/A
g. Amount of Federal Funds Obligated by this Action:		\$0.00
h. Amount of Federal Funds Obligated to Date (including this Action):		\$0.00
3. ESTIMATED PAYMENT TO LOCAL AGENCY		
a. Federal Funds Budgeted		\$1,350,000.00
b. Less Estimated Federal Share of CDOT-Incurred Costs		\$0.00
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY	90%	\$1,350,000.00
TOTAL ESTIMATED FUNDING BY LOCAL AGENCY	10%	\$150,000.00
TOTAL PROJECT ESTIMATED FUNDING	100.00%	\$1,500,000.00
4. FOR CDOT ENCUMBRANCE PURPOSES		
SHO M086-097 (25101)		
a. Total Encumbrance Amount (Federal funds + Local Agency funds)		\$1,500,000.00
b. Less ROW Acquisition 3111 and/or ROW Relocation 3109		\$0.00
NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS		\$1,500,000.00

Note: No funds are currently available. Funds will become available after execution of an Option Letter (Exhibit B) or formal Amendment.

SHO M086-097 (25101)			
WBS Element 25101.10.30	Performance Period Start*/End Date TBD - TBD	Design 3020	\$0.00
WBS Element 25101.20.10	Performance Period Start*/End Date TBD - TBD	Const. 3301	\$0.00

* For SHO M086-097 (25101) the Local Agency should not begin work until all three (3) of the following are in place: 1) Phase Performance Period Start Date; 2) the execution of the document encumbering funds for the respective phase; and 3) Local Agency receipt of the official Notice to Proceed. Any work performed before these three (3) milestones are achieved will not be reimbursable.

B. Funding Ratios

SHO M086-097 (25101)

The funding ratio for the federal funds for this Work is 90% federal funds to 10% Local Agency funds, and this ratio applies only to the \$1,500,000.00 that is eligible for federal funding. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds \$1,500,000.00, and additional federal funds are available for the Work, the Local Agency shall pay 10% of all such costs eligible for federal funding and 100% of all other costs. If additional federal funds are not available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than \$1,500,000.00, then the amounts of Local Agency and federal funds will be decreased in accordance with the funding ratio described herein. **This applies to the entire scope of Work.**

C. Maximum Amount Payable

SHO M086-097 (25101)

The maximum amount payable to the Local Agency under this Agreement shall be \$1,350,000.00. For CDOT accounting purposes, the federal funds of \$1,350,000.00 and the Local Agency funds of \$150,000.00 will be encumbered for a total encumbrance of \$1,500,000.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency's awarded Agreement is less than the budgeted total of the federal funds and the Local Agency funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 7. E. of this contract. **This applies to the entire scope of Work.**

D. Single Audit Act Amendment

All state and local government and non-profit organizations receiving \$750,000 or more from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of 2 CFR part 200, subpart F (Audit Requirements) see also, 49 CFR 18.20 through 18.26. The Single Audit Act Amendment requirements applicable to the Local Agency receiving federal funds are as follows:

i. Expenditure less than \$750,000

If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.

ii. Expenditure of \$750,000 or more-Highway Funds Only

If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.

iii. Expenditure of \$750,000 or more-Multiple Funding Sources

If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.

iv. Independent CPA

Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.

EXHIBIT D

LOCAL AGENCY RESOLUTION (IF APPLICABLE)

EXHIBIT E – LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST

COLORADO DEPARTMENT OF TRANSPORTATION LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST			
Project No. M086-097	STIP No.	Project Code 25101	Region 2
Project Location Lake Avenue and Orman Avenue			Date 6/3/2022
Project Description Lake Ave and Orman Ave. Roundabout			
Local Agency The City of Pueblo	Local Agency Project Manager Kelly Grisham		
CDOT Resident Engineer Lachelle Davis	CDOT Project Manager Don Scanga		
INSTRUCTIONS: This checklist shall be utilized to establish the contract administration responsibilities of the individual parties to this agreement. The checklist becomes an attachment to the Local Agency agreement. Section numbers correspond to the applicable chapters of the <i>CDOT Local Agency Manual</i>. The checklist shall be prepared by placing an "X" under the responsible party, opposite each of the tasks. The "X" denotes the party responsible for initiating and executing the task. Only one responsible party should be selected. When neither CDOT nor the Local Agency is responsible for a task, not applicable (NA) shall be noted. In addition, a "#" will denote that CDOT must concur or approve. Tasks that will be performed by Headquarters staff will be indicated. The Regions, in accordance with established policies and procedures, will determine who will perform all other tasks that are the responsibility of CDOT. The checklist shall be prepared by the CDOT Resident Engineer or the CDOT Project Manager, in cooperation with the Local Agency Project Manager, and submitted to the Region Program Engineer. If contract administration responsibilities change, the CDOT Resident Engineer, in cooperation with the Local Agency Project Manager, will prepare and distribute a revised checklist. Note: Failure to comply with applicable Federal and State requirements may result in the loss of Federal or State participation in funding.			

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
TIP / STIP AND LONG-RANGE PLANS			
2.1	Review Project to ensure it is consist with STIP and amendments thereto		X
FEDERAL FUNDING OBLIGATION AND AUTHORIZATION			
4.1	Authorize funding by phases (CDOT Form 418 - Federal-aid Program Data. Requires FHWA concurrence/involvement)		X
PROJECT DEVELOPMENT			
5.1	Prepare Design Data - CDOT Form 463	X	X
5.2	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		X
5.3	Conduct Consultant Selection/Execute Consultant Agreement	X	
5.4	Conduct Design Scoping Review Meeting	X	
5.5	Conduct Public Involvement	X	
5.6	Conduct Field Inspection Review (FIR)	X	
5.7	Conduct Environmental Processes (may require FHWA concurrence/involvement)	X	
5.8	Acquire Right-of-Way (may require FHWA concurrence/involvement)	X	
5.9	Obtain Utility and Railroad Agreements	X	
5.10	Conduct Final Office Review (FOR)	X	
5.11	Justify Force Account Work by the Local Agency	X	
5.12	Justify Proprietary, Sole Source, or Local Agency Furnished Items	X	

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
5.13	Document Design Exceptions - CDOT Form 464	X	
5.14	Prepare Plans, Specifications and Construction Cost Estimates	X	
5.15	Ensure Authorization of Funds for Construction		X
PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE			
6.1	Set Underutilized Disadvantaged Business Enterprise (UBDE) Goals for Consultant and Construction Contracts (CDOT Region EEO/Civil Rights Specialist)		X
6.2	Determine Applicability of Davis-Bacon Act This project ☐ is X is not exempt from Davis-Bacon requirements as determined by the functional classification of the project location (Projects located on local roads and rural minor collectors may be exempt.) Lachelle Davis CDOT Resident Engineer (Signature on File) 6/3/2022 Date		X
6.3	Set On-the-Job Training Goals. Goal is zero if total construction is less than \$1 million (CDOT Region EEO/Civil Rights Specialist)		X
6.4	Title VI Assurances	X	
	Ensure the correct Federal Wage Decision, all required Disadvantaged Business Enterprise/On-the-Job Training special provisions and FHWA Form 1273 are included in the Contract (CDOT Resident Engineer)		X
ADVERTISE, BID AND AWARD			
7.1	Obtain Approval for Advertisement Period of Less Than Three Weeks	X	
7.2	Advertise for Bids	X	
7.3	Distribute "Advertisement Set" of Plans and Specifications	X	
7.4	Review Worksite and Plan Details with Prospective Bidders While Project Is Under Advertisement	X	
7.5	Open Bids	X	
7.6	Process Bids for Compliance		
	Check CDOT Form 715 - Certificate of Proposed Underutilized DBE Participation when the low bidder meets UDBE goals		X
	Evaluate CDOT Form 718 - Underutilized DBE Good Faith Effort Documentation and determine if the Contractor has made a good faith effort when the low bidder does not meet DBE goals		X
	Submit required documentation for CDOT award concurrence	X	
7.7	Concurrence from CDOT to Award		X
7.8	Approve Rejection of Low Bidder		X
7.9	Award Contract	X	
7.10	Provide "Award" and "Record" Sets of Plans and Specifications	X	
CONSTRUCTION MANAGEMENT			
8.1	Issue Notice to Proceed to the Contractor	X	
8.2	Project Safety	X	X
8.3	Conduct Conferences:		
	Pre-Construction Conference (Appendix B)	X	
	Pre-survey		
	• Construction staking	X	
	• Monumentation	X	
	Partnering (Optional)	X	
	Structural Concrete Pre-Pour (Agenda is in CDOT Construction Manual)	X	
	Concrete Pavement Pre-Paving (Agenda is in CDOT Construction Manual)	X	
	HMA Pre-Paving (Agenda is in CDOT Construction Manual)	X	
8.4	Develop and distribute Public Notice of Planned Construction to media and local residents	X	
8.5	Supervise Construction		
	A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision." Charles Roy Local Agency Professional Engineer or CDOT Resident Engineer 719-553-2771 Phone number	X	

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
	Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications	X	
	Construction inspection and documentation	X	
8.6	Approve Shop Drawings	X	
8.7	Perform Traffic Control Inspections	X	
8.8	Perform Construction Surveying	X	
8.9	Monument Right-of-Way	X	
8.10	Prepare and Approve Interim and Final Contractor Pay Estimates	X	
	Provide the name and phone number of the person authorized for this task. Kelly Grisham 719-553-2254 Local Agency Representative Phone number		
8.11	Prepare and Approve Interim and Final Utility and Railroad Billings	X	
8.12	Prepare and Authorize Change Orders	X	
8.13	Submit Change Order Package to CDOT	X	
8.14	Prepare Local Agency Reimbursement Requests	X	
8.15	Monitor Project Financial Status	X	
8.16	Prepare and Submit Monthly Progress Reports	X	
8.17	Resolve Contractor Claims and Disputes	X	
8.18	Conduct Routine and Random Project Reviews		
	Provide the name and phone number of the person responsible for this task. Don Scanga 719-546-5434 CDOT Resident Engineer Phone number		X
MATERIALS			
9.1	Discuss Materials at Pre-Construction Meeting • Buy America documentation required prior to installation of steel	X	
9.2	Complete CDOT Form 250 - Materials Documentation Record • Generate form, which includes determining the minimum number of required tests and applicable material submittals for all materials placed on the project • Update the form as work progresses • Complete and distribute form after work is completed	X X	X
9.3	Perform Project Acceptance Samples and Tests	X	
9.4	Perform Laboratory Verification Tests	X	
9.5	Accept Manufactured Products	X	
	Inspection of structural components: • Fabrication of structural steel and pre-stressed concrete structural components • Bridge modular expansion devices (0" to 6" or greater) • Fabrication of bearing devices	X X X	
9.6	Approve Sources of Materials	X	
9.7	Independent Assurance Testing (IAT), Local Agency Procedures ☐ CDOT Procedures X • Generate IAT schedule • Schedule and provide notification • Conduct IAT	X X X	
9.8	Approve mix designs • Concrete • Hot mix asphalt	X X	
9.9	Check Final Materials Documentation	X	
9.10	Complete and Distribute Final Materials Documentation	X	
CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE			
10.1	Fulfill Project Bulletin Board and Pre-Construction Packet Requirements	X	
10.2	Process CDOT Form 205 - Sublet Permit Application		

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
	Review and sign completed CDOT Form 205 for each subcontractor, and submit to EEO/Civil Rights Specialist	X	
10.3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews. Complete CDOT Form 280	X	
10.4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" Requirements	X	
10.5	Conduct Interviews When Project Utilizes On-the-Job Trainees. Complete CDOT Form 200 - OJT Training Questionnaire	X	
10.6	Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialists for training requirements.)	X	
10.7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	X	
FINALS			
11.1	Conduct Final Project Inspection. Complete and submit CDOT Form 1212 - Final Acceptance Report (Resident Engineer with mandatory Local Agency participation.)		X
11.2	Write Final Project Acceptance Letter	X	
11.3	Advertise for Final Settlement	X	
11.4	Prepare and Distribute Final As-Constructed Plans	X	
11.5	Prepare EEO Certification	X	
11.6	Check Final Quantities, Plans, and Pay Estimate; Check Project Documentation; and submit Final Certifications	X	
11.7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	X	
11.8	Obtain CDOT Form 17 from the Contractor and Submit to the Resident Engineer	X	
11.9	Obtain FHWA Form 47 - Statement of Materials and Labor Used ... from the Contractor	X	
11.10	Complete and Submit CDOT Form 1212 – Final Acceptance Report (by CDOT)		X
11.11	Process Final Payment	X	
11.12	Complete and Submit CDOT Form 950 - Project Closure		X
11.13	Retain Project Records for Six Years from Date of Project Closure		X
11.14	Retain Final Version of Local Agency Contract Administration Checklist	X	

cc: CDOT Resident Engineer/Project Manager
CDOT Region Program Engineer
CDOT Region EEO/Civil Rights Specialist
CDOT Region Materials Engineer
CDOT Contracts and Market Analysis Branch
Local Agency Project Manager

EXHIBIT F
CERTIFICATION FOR FEDERAL-AID CONTRACTS

The Local Agency certifies, by signing this Agreement, to the best of its knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, Agreement, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer of Congress, or an employee of a Member of Congress in connection with this Federal contract, Agreement, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

EXHIBIT G
DISADVANTAGED BUSINESS ENTERPRISE

SECTION 1. Policy.

It is the policy of the Colorado Department of Transportation (CDOT) that disadvantaged business enterprises shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement, pursuant to 49 CFR Part 26. Consequently, the 49 CFR Part IE DBE requirements the Colorado Department of Transportation DBE Program (or a Local Agency DBE Program approved in advance by the State) apply to this agreement.

SECTION 2. DBE Obligation.

The recipient or its the Local Agency agrees to ensure that disadvantaged business enterprises as determined by the Office of Certification at the Colorado Department of Regulatory Agencies have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all participants or contractors shall take all necessary and reasonable steps in accordance with the CDOT DBE program (or a Local Agency DBE Program approved in advance by the State) to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of CDOT assisted contracts.

SECTION 3 DBE Program.

The Local Agency (sub-recipient) shall be responsible for obtaining the Disadvantaged Business Enterprise Program of the Colorado Department of Transportation, 1988, as amended, and shall comply with the applicable provisions of the program. (If applicable).

A copy of the DBE Program is available from and will be mailed to the Local Agency upon request: Business Programs Office

Colorado Department of Transportation 2829 West Howard Place

Denver, Colorado 80204

Phone: (303) 757-9007

REVISED 1/22/98

REQUIRED BY 49 CFR PART 26

EXHIBIT H

LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES

Title 23 Code of Federal Regulations (CFR) 172 applies to a federally funded Local Agency project agreement administered by CDOT that involves professional consultant services. 23 CFR 172.1 states “The policies and procedures involve federally funded contracts for engineering and design related services for projects subject to the provisions of 23 U.S.C. 112(a) and are issued to ensure that a qualified consultant is obtained through an equitable selection process, that prescribed work is properly accomplished in a timely manner, and at fair and reasonable cost” and according to 23 CFR 172.5 “Price shall not be used as a factor in the analysis and selection phase.” Therefore, local agencies must comply with these CFR requirements when obtaining professional consultant services under a federally funded consultant contract administered by CDOT.

CDOT has formulated its procedures in Procedural Directive (P.D.) 400.1 and the related operations guidebook titled "Obtaining Professional Consultant Services". This directive and guidebook incorporate requirements from both Federal and State regulations, i.e., 23 CFR 172 and CRS §24-30-1401 et seq. Copies of the directive and the guidebook may be obtained upon request from CDOT's Agreements and Consultant Management Unit. [Local agencies should have their own written procedures on file for each method of procurement that addresses the items in 23 CFR 172].

Because the procedures and laws described in the Procedural Directive and the guidebook are quite lengthy, the subsequent steps serve as a short-hand guide to CDOT procedures that a Local Agency must follow in obtaining professional consultant services. This guidance follows the format of 23 CFR 172. The steps are:

1. The contracting Local Agency shall document the need for obtaining professional services.
2. Prior to solicitation for consultant services, the contracting Local Agency shall develop a detailed scope of work and a list of evaluation factors and their relative importance. The evaluation factors are those identified in C.R.S. 24-30-1403. Also, a detailed cost estimate should be prepared for use during negotiations.
3. The contracting agency must advertise for contracts in conformity with the requirements of C.R.S. 24-30-1405. The public notice period, when such notice is required, is a minimum of 15 days prior to the selection of the three most qualified firms and the advertising should be done in one or more daily newspapers of general circulation.
4. The Local Agency shall not advertise any federal aid contract without prior review by the CDOT Regional Civil Rights Office (RCRO) to determine whether the contract shall be subject to a DBE contract goal. If the RCRO determines a goal is necessary, then the Local Agency shall include the goal and the applicable provisions within the advertisement. The Local Agency shall not award a contract to any Contractor or Consultant without the confirmation by the CDOT Civil Rights and Business Resource Center that the Contractor or Consultant has demonstrated good faith efforts. The Local Agency shall work with the CDOT RCRO to ensure compliance with the established terms during the performance of the contract.
5. The Local Agency shall require that all contractors pay subcontractors for satisfactory performance of work no later than 30 days after the receipt of payment for that work from the contractor. For construction projects, this time period shall be reduced to seven days in accordance with Colorado Revised Statute 24-91-103(2). If the Local Agency withholds retainage from contractors and/or allows contractors to withhold retainage from subcontractors, such retainage provisions must comply with 49 CFR 26.29.
6. Payments to all Subconsultants shall be made within thirty days of receipt of payment from [the Local Agency] or no later than ninety days from the date of the submission of a complete invoice from the Subconsultant, whichever occurs first. If the Consultant has good cause to dispute an amount invoiced by a Subconsultant, the Consultant shall notify [the Local Agency] 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 the Consultant's failure to submit an invoice to the Local Agency or to deposit payments made.
7. The analysis and selection of the consultants shall be done in accordance with CRS §24-30-1403. This section of the regulation identifies the criteria to be used in the evaluation of CDOT pre-qualified prime consultants and their team. It also shows which criteria are used to short-list and to make a final selection.

The short-list is based on the following evaluation factors:

- a. Qualifications,

- b. Approach to the Work,
- c. Ability to furnish professional services.
- d. Anticipated design concepts, and
- e. Alternative methods of approach for furnishing the professional services. Evaluation factors for final selection are the consultant's:

- a. Abilities of their personnel,
 - b. Past performance,
 - c. Willingness to meet the time and budget requirement,
 - d. Location,
 - e. Current and projected work load,
 - f. Volume of previously awarded contracts, and
 - g. Involvement of minority consultants.
8. Once a consultant is selected, the Local Agency enters into negotiations with the consultant to obtain a fair and reasonable price for the anticipated work. Pre-negotiation audits are prepared for contracts expected to be greater than \$50,000. Federal reimbursements for costs are limited to those costs allowable under the cost principles of 48 CFR 31. Fixed fees (profit) are determined with consideration given to size, complexity, duration, and degree of risk involved in the work. Profit is in the range of six to 15 percent of the total direct and indirect costs.
9. A qualified Local Agency employee shall be responsible and in charge of the Work to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of the contract. At the end of Work, the Local Agency prepares a performance evaluation (a CDOT form is available) on the consultant.

CRS §§24-30-1401 THROUGH 24-30-1408, 23 CFR PART 172, AND P.D. 400.1, PROVIDE ADDITIONAL DETAILS FOR COMPLYING WITH THE PRECEEDING EIGHT (8) STEPS.

EXHIBIT I

FEDERAL-AID CONTRACT PROVISIONS FOR CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety; Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Government wide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design- build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension/debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60- 1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: 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, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. **Training and Promotion:**

The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

a. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

b. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

c. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. **Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher-paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. **Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. **Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract.

The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. **Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt.

Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA- 1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account, assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements.

It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (i) That the payroll for the payroll period contains the information required to be provided under §5.5(a)(3)
- (ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5(a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
- (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices.

Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity.

The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S.DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. **Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. **Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. **Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and

7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

- a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below.

The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

- i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

- (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph(a)(2) of this certification; and

- (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT J

ADDITIONAL FEDERAL REQUIREMENTS

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 Agencies and their contractors or the Local Agencies).

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 Agencies and the Local Agencies 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.

Nondiscrimination

The Local Agency shall not exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color national origin, sex, age or disability. Prior to the receipt of any Federal financial assistance from CDOT, the Local Agency shall execute the attached Standard DOT Title VI assurance. As appropriate, the Local Agency shall include Appendix A, B, or C to the Standard DOT Title VI assurance in any contract utilizing federal funds, land or other aid. The Local Agency shall also include the following in all contract advertisements:

The [Local Agency], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (79 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, DBEs 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 any award.

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".

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973. The requirements for which are shown in the Nondiscrimination Provisions, which are attached hereto and made a part hereof.

Nondiscrimination Provisions:

In compliance with Title VI of the Civil Rights Act of 1964 and with Section 162(a) of the Federal Aid Highway Act of 1973, the Contractor, for itself, its assignees and successors in interest, agree as follows:

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.

Incorporation of Provisions §22

The Contractor will include the provisions of this 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.

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SAMPLE

The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination

Assurances for Local Agencies

DOT Order No. 1050.2A

The [Local Agency] (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Colorado Department of Transportation and the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA), is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, "for which the Recipient receives Federal financial assistance from DOT, including the FHWA, FTA, or FAA.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non- discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FHWA, FTA, and FAA assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all FHWA, FTA and FAA programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:
3. "The [Local Agency] 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 any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity

4. 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."
5. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
6. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
7. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
8. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
9. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
10. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
11. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
12. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the [Local Agency] also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA, FTA, and FAA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by CDOT, FHWA, FTA, or FAA. You must keep records, reports, and submit the material for review

upon request to CDOT, FHWA, FTA, or FAA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

[Local Agency] gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FHWA, FTA, and FAA. This ASSURANCE is binding on [Local Agency], other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FHWA, FTA, and FAA funded programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

(Name of Recipient)

by _____
(Signature of Authorized Official)

DATED _____

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, FHWA, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate 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.
3. **Solicitations for Subcontracts, Including Procurements 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 procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives 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 [Local Agency], CDOT or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the [Local Agency], CDOT or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the [Local Agency] will impose such contract sanctions as it, CDOT or FHWA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the [Local Agency], CDOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the [Local Agency] will accept title to the lands and maintain the project constructed thereon in accordance with (*Name of Appropriate Legislative Authority*), the Regulations for the Administration of (*Name of Appropriate Program*), and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the [Local Agency] all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto [Local Agency] and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the [Local Agency] its successors and assigns.

The [Local Agency], in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the [Local Agency] will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the [Local Agency] pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "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 (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. *
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the [Local Agency] will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the [Local Agency] and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by [Local Agency] pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non- discrimination covenants, [Local Agency] will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. *
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will there upon revert to and vest in and become the absolute property of [Local Agency] of Transportation and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

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:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

EXHIBIT K
FFATA SUPPLEMENTAL FEDERAL PROVISIONS

State of Colorado
Supplemental Provisions for
Federally Funded Contracts, Grants, and Purchase Orders
Subject to
The Federal Funding Accountability and Transparency Act of 2006 (FFATA), As Amended
Revised as of 3-20-13

The contract, grant, or purchase order to which these Supplemental Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the contract or any attachments or exhibits incorporated into and made a part of the contract, the provisions of these Supplemental Provisions shall control.

1. Definitions. For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

1.1. “Award” means an award of Federal financial assistance that a non-Federal Entity receives or administers in the form of:

- 1.1.1.** Grants;
- 1.1.2.** Contracts;
- 1.1.3.** Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- 1.1.4.** Loans;
- 1.1.5.** Loan Guarantees;
- 1.1.6.** Subsidies;
- 1.1.7.** Insurance;
- 1.1.8.** Food commodities;
- 1.1.9.** Direct appropriations;
- 1.1.10.** Assessed and voluntary contributions; and
- 1.1.11.** Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

Award **does not** include:

- 1.1.12.** Technical assistance, which provides services in lieu of money;
- 1.1.13.** A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
- 1.1.14.** Any award classified for security purposes; or
- 1.1.15.** Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

1.2. “Contract” means the contract to which these Supplemental Provisions are attached and includes all Award types in §1.1.1 through 1.1.11 above.

1.3. “Contractor” means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.

1.4. “Data Universal Numbering System (DUNS) Number” means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.

1.5. “Entity” means all of the following as defined at 2 CFR part 25, subpart C;

- 1.5.1.** A governmental organization, which is a State, local government, or Indian Tribe;
- 1.5.2.** A foreign public entity;
- 1.5.3.** A domestic or foreign non-profit organization;

- 1.5.4. A domestic or foreign for-profit organization; and
- 1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 1.6. **“Executive”** means an officer, managing partner or any other employee in a management position.
- 1.7. **“Federal Award Identification Number (FAIN)”** means an Award number assigned by a Federal agency to a Prime Recipient.
- 1.8. **“FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109- 282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
- 1.9. **“Prime Recipient”** means a Colorado State agency or institution of higher education that receives an Award.
- 1.10. **“Subaward”** means a legal instrument pursuant to which a Prime Recipient of Award funds awards all or a portion of such funds to a Subrecipient, in exchange for the Subrecipient’s support in the performance of all or any portion of the substantive project or program for which the Award was granted.
- 1.11. **“Subrecipient”** means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subgrantee.
- 1.12. **“Subrecipient Parent DUNS Number”** means the subrecipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.
- 1.13. **“Supplemental Provisions”** means these Supplemental Provisions for Federally Funded Contracts, Grants, and Purchase Orders subject to the Federal Funding Accountability and Transparency Act of 2006, As Amended, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institution of higher education.
- 1.14. **“System for Award Management (SAM)”** means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 1.15. **“Total Compensation”** means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
- 1.15.1. Salary and bonus;
 - 1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 1.16. **“Transparency Act”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.
- 1.17 **“Vendor”** means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

2. **Compliance.** Contractor shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, including but not limited to these Supplemental Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
3. **System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.**
 - 3.1. **SAM.** Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
 - 3.2. **DUNS.** Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor's information.
4. **Total Compensation.** Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 4.1. The total Federal funding authorized to date under the Award is \$25,000 or more; and
 - 4.2. In the preceding fiscal year, Contractor received:
 - 4.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.
5. **Reporting.** Contractor shall report data elements to SAM and to the Prime Recipient as required in §7 below if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Supplemental Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in §7 below are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract, as provided in §2 above. The Colorado Office of the State Controller will provide summaries of revised OMB reporting requirements at <http://www.colorado.gov/dpa/dfp/sco/FFATA.htm>.
6. **Effective Date and Dollar Threshold for Reporting.** The effective date of these Supplemental Provisions apply to new Awards as of October 1, 2010. Reporting requirements in §7 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.
7. **Subrecipient Reporting Requirements.** If Contractor is a Subrecipient, Contractor shall report as set forth below.

7.1 To SAM. A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Subaward was made:

7.1.1 Subrecipient DUNS Number;

7.1.2 Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;

7.1.3 Subrecipient Parent DUNS Number;

7.1.4 Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

7.1.5 Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and

7.1.6 Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.

7.2 To Prime Recipient. A Subrecipient shall report to its Prime Recipient, upon the effective date of the Contract, the following data elements:

7.2.1 Subrecipient's DUNS Number as registered in **SAM**.

7.2.2 Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

8. Exemptions.

8.1. These Supplemental Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

8.2 A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

8.3 Effective October 1, 2010, "Award" currently means a grant, cooperative agreement, or other arrangement as defined in Section 1.1 of these Special Provisions. On future dates "Award" may include other items to be specified by OMB in policy memoranda available at the OMB Web site; Award also will include other types of Awards subject to the Transparency Act.

8.4 There are no Transparency Act reporting requirements for Vendors.

Event of Default. Failure to comply with these Supplemental Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

EXHIBIT L

SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT

	CDOT SUBRECIPIENT RISK ASSESSMENT	Date:			
Name of Entity (Subrecipient):					
Name of Project / Program:					
Estimated Award Period:					
Entity Executive Director or VP:					
Entity Chief Financial Officer:					
Entity Representative for this Self Assessment:					
Instructions: (See "Instructions" tab for more information) 1. Check only one box for each question. All questions are required to be answered. 2. Utilize the "Comment" section below the last question for additional responses. 3. When complete, check the box at the bottom of the form to authorize.					
		Yes	No	N/A	
EXPERIENCE ASSESSMENT		Yes	No	N/A	
1 Is your entity new to operating or managing federal funds (has not done so within the past three years)?		☐	☐		
2 Is this funding program new for your entity (managed for less than three years)? <i>Examples of funding programs include CMAQ, TAP, STP-M, etc.</i>		☐	☐		
3 Does your staff assigned to the program have at least three full years of experience with this federal program?		☐	☐		
MONITORING/AUDIT ASSESSMENT		Yes	No	N/A	
4 Has your entity had an on-site project or grant review from an external entity (e.g., CDOT, FHWA) within the last three years?		☐	☐	☐	
5 a) Were there non-compliance issues in this prior review?		☐	☐	☐	
b) What were the number and extent of issues in prior review?		☐ 1 to 2	☐ >3	☐	
OPERATION ASSESSMENT		Yes	No	N/A	
6 Does your entity have a time and effort reporting system in place to account for 100% of all employees' time, that can provide a breakdown of the actual time spent on each funded project? <i>If No, in the comment section please explain how you intend to document 100% of hours worked by employees and breakdown of time spent on each funding project.</i>		☐	☐		
FINANCIAL ASSESSMENT		Yes	No	N/A	
7 a) Does your entity have an indirect cost rate that is approved and current?		☐	☐		
b) If Yes, who approved the rate, and what date was it approved?					
8 Is this grant/award 10% or more of your entity's overall funding?		☐ >10%	☐ <10%		
9 Has your entity returned lapsed* funds? *Funds "lapse" when they are no longer available for obligation.		☐	☐	☐	
10 Has your entity had difficulty meeting local match requirements in the last three years?		☐	☐	☐	
11 What is the total federal funding your entity has been awarded for the last federal fiscal year, and what is your entity's fiscal year end?					

INTERNAL CONTROLS ASSESSMENT		Yes	No	N/A
12	Has your entity had any significant changes in key personnel or accounting system(s) in the last year? (e.g., Controller, Exec Director, Program Mgr, Accounting Mgr, etc.) If Yes, in the comment section, please identify the accounting system(s), and / or list personnel positions and identify any that are vacant.	☐	☐	☐
13	Does your entity have financial procedures and controls in place to accommodate a federal-aid project?	☐	☐	
14	Does your accounting system identify the receipts and expenditures of program funds separately for each award?	☐	☐	
15	Will your accounting system provide for the recording of expenditures for each award by the budget cost categories shown in the approved budget?	☐	☐	
16	Does your agency have a review process for all expenditures that will ensure that all costs are reasonable, allowable and allocated correctly to each funding source? If Yes, in the comment section, please explain your current process for reviewing costs.	☐	☐	☐
17	How many total FTE perform accounting functions within your organization?	☐ ≥ 6	☐ 2 to 5	☐ < 2
IMPACT ASSESSMENT		Yes	No	N/A
18	For this upcoming federal award or in the immediate future, does your entity have any potential conflicts of interest* in accordance with applicable Federal awarding agency policy? If Yes, please disclose these conflicts in writing, along with supporting information, and submit with this form. (*Any practices, activities or relationships that reasonably appear to be in conflict with the full performance of the Subrecipient's obligations to the State.)	☐	☐	
19	For this award, has your entity disclosed to CDOT, in writing, violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award? Response options: YES = Check if have one or more violation(s) and have either disclosed previously to CDOT or as part of this form. In the comment section, list all violations with names of supporting documentation and submit with this form. NO = Check if have one or more violation(s) and have not disclosed previously or will not disclose as part of this form. Explain in the comment section. N/A = Check if have no violations.	☐	☐	☐
PROGRAM MANAGEMENT ASSESSMENT		Yes	No	N/A
20	Does your entity have a written process/procedure or certification statement approved by your governing board ensuring critical project personnel are capable of effectively managing Federal-aid projects? If Yes, please submit with this form.	☐	☐	☐
21	Does your entity have written procurement policies or certification statement for consultant selection approved by your governing board in compliance with 23 CFR 172*? If Yes, please submit with this form. (*The Brooks Act requires agencies to promote open competition by advertising, ranking, selecting, and negotiating contracts based on demonstrated competence and qualifications, at a fair and reasonable price.)	☐	☐	☐
22	a) Is your staff familiar with the relevant CDOT manuals and federal program requirements?	☐	☐	☐
	b) Does your entity have a written policy or a certification statement approved by your governing board assuring federal-aid projects will receive adequate inspections? If Yes, please submit with this form.	☐	☐	☐
	c) Does your entity have a written process or a certification statement approved by your governing board assuring a contractor's work will be completed in conformance with approved plans and specifications? If Yes, please submit with this form.	☐	☐	☐

d) Does your entity have a written policy or certification statement approved by your governing board assuring that materials installed on the projects are sampled and tested per approved processes. <i>If Yes, please submit with this form.</i>	☐	☐	☐
e) Does your entity have a written policy or certification statement approved by your governing board assuring that only US manufactured steel will be incorporated into the project (<i>Buy America requirements</i>)? <i>If Yes, please submit with this form.</i>	☐	☐	☐
Comments - As needed, include the question number and provide comments related to the above questions. Insert additional rows as needed.			
☐ By checking this box, the Executive Director, VP or Chief Financial Officer of this entity certifies that all information provided on this form is true and correct.  Tool Version: v2.0 (081816)			

**EXHIBIT M - OMB Uniform Guidance for Federal
Awards Subject to
The Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit
Requirements for Federal Awards (“Uniform Guidance”),
Federal Register, Vol. 78, No. 248, 78590**

The agreement to which these Uniform Guidance Supplemental Provisions are attached has been funded, in whole or in part, with an award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the agreement or any attachments or exhibits incorporated into and made a part of the agreement, the provisions of these Uniform Guidance Supplemental Provisions shall control. In the event of a conflict between the provisions of these Supplemental Provisions and the FFATA Supplemental Provisions, the FFATA Supplemental Provisions shall control.

- 9. Definitions.** For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.
- 9.1. “Award”** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise. 2 CFR §200.38
 - 9.2. “Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
 - 9.3. “Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. 2CFR §200.37
 - 9.4. “FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
 - 9.5. “Grant” or “Grant Agreement”** means an agreement setting forth the terms and conditions of an Award. The term does not include an agreement that provides only direct Federal cash assistance to an individual, a subsidy, a loan, a loan guarantee, insurance, or acquires property or services for the direct benefit of use of the Federal Awarding Agency or Recipient. 2 CFR §200.51.
 - 9.6. “OMB”** means the Executive Office of the President, Office of Management and Budget.
 - 9.7. “Recipient”** means a Colorado State department, agency or institution of higher education that receives a Federal Award from a Federal Awarding Agency to carry out an activity under a Federal program. The term does not include Subrecipients. 2 CFR §200.86
 - 9.8. “State”** means the State of Colorado, acting by and through its departments, agencies and institutions of higher education.
 - 9.9. “Subrecipient”** means a non-Federal entity receiving an Award from a Recipient to carry out part of a Federal program. The term does not include an individual who is a beneficiary of such program.
 - 9.10. “Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A- 133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
 - 9.11. “Uniform Guidance Supplemental Provisions”** means these Supplemental Provisions for Federal Awards subject to the OMB Uniform Guidance, as may be revised pursuant to ongoing guidance from relevant Federal agencies or the Colorado State Controller.
- 10. Compliance.** Subrecipient shall comply with all applicable provisions of the Uniform Guidance, including but not limited to these Uniform Guidance Supplemental Provisions. Any revisions to such provisions

automatically shall become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Subrecipient of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

11. Procurement Standards.

- 3.1 Procurement Procedures.** Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, §§200.318 through 200.326 thereof.
- 3.2 Procurement of Recovered Materials.** If Subrecipient is a State Agency or an agency of a political subdivision of a state, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 4. Access to Records.** Subrecipient shall permit Recipient and auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass-through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).
- 5. Single Audit Requirements.** If Subrecipient expends \$750,000 or more in Federal Awards during Subrecipient's fiscal year, Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR §200.501.
 - 5.1 Election.** Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
 - 5.2 Exemption.** If Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
 - 5.3 Subrecipient Compliance Responsibility.** Subrecipient shall procure or otherwise arrange for the audit required by Part F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Uniform Guidance §200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Part F-Audit Requirements.
- 6. Contract Provisions for Subrecipient Contracts.** Subrecipient shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Grant Agreement.

- 6.1 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 subcontract or 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.”

- 4.2 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 non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- 4.3 **Rights to Inventions Made Under a Contract or Agreement.** 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.
 - 4.4 **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).
 - 4.5 **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.
 - 4.6 **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. **Certifications.** Unless prohibited by Federal statutes or regulations, Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR §200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR §200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.
 - 1.8. **Event of Default.** Failure to comply with these Uniform Guidance Supplemental Provisions shall constitute an event of default under the Grant Agreement (2 CFR §200.339) and the State may terminate the Grant upon 30

days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.

9. **Effective Date.** The effective date of the Uniform Guidance is December 26, 2013. 2 CFR §200.110. The procurement standards set forth in Uniform Guidance §§200.317-200.326 are applicable to new Awards made by Recipient as of December 26, 2015. The standards set forth in Uniform Guidance Subpart F-Audit Requirements are applicable to audits of fiscal years beginning on or after December 26, 2014.

10. **Performance Measurement**

The Uniform Guidance requires completion of OMB-approved standard information collection forms (the PPR). The form focuses on outcomes, as related to the Federal Award Performance Goals that awarding Federal agencies are required to detail in the Awards.

Section 200.301 provides guidance to Federal agencies to measure performance in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes.

The Federal awarding agency is required to provide recipients with clear performance goals, indicators, and milestones (200.210). Also, must require the recipient to relate financial data to performance accomplishments of the Federal award.

Exhibit N

Federal Treasury Provisions

1. APPLICABILITY OF PROVISIONS.

- 1.1. The Grant to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.
- 1.2. The State of Colorado is accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the SLFRF statute, SLFRF Award Terms and Conditions, Treasury's Final Rule, and reporting requirements, as applicable.
- 1.3. Additionally, any subrecipient that issues a subaward to another entity (2nd tier subrecipient), must hold the 2nd tier subrecipient accountable to these provisions and adhere to reporting requirements.
- 1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
 - 2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
 - 2.1.2. "Data Universal Numbering System (DUNS) Number" means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet's website may be found at: <http://fedgov.dnb.com/webform>.
 - 2.1.3. "Entity" means:
 - 2.1.3.1. a Non-Federal Entity;
 - 2.1.3.2. a foreign public entity;
 - 2.1.3.3. a foreign organization;
 - 2.1.3.4. a non-profit organization;
 - 2.1.3.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
 - 2.1.3.6. a foreign non-profit organization (only for 2 CFR part 170) only;

- 2.1.3.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
- 2.1.3.8. a foreign for-profit organization (for 2 CFR part 170 only).
- 2.1.4. “Executive” means an officer, managing partner or any other employee in a management position.
- 2.1.5. “Expenditure Category (EC)” means the category of eligible uses as defined by the US Department of Treasury in “Appendix 1 of the Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds” report available at www.treasury.gov.
- 2.1.6. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1
- 2.1.7. “Grant” means the Grant to which these Federal Provisions are attached.
- 2.1.8. “Grantee” means the party or parties identified as such in the Grant to which these Federal Provisions are attached.
- 2.1.9. “Non-Federal Entity means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.
- 2.1.10. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
 - 2.1.10.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
 - 2.1.10.2. Is not organized primarily for profit; and
 - 2.1.10.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 2.1.11. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.12. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 2.1.13. “Prime Recipient” means the Colorado State agency or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.
- 2.1.14. “Subaward” means an award by a Prime Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.

- 2.1.15. “Subrecipient” or “Subgrantee” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term does not include an individual who is a beneficiary of a federal program.
- 2.1.16. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year (see 48 CFR 52.204-10, as prescribed in 48 CFR 4.1403(a)) and includes the following:
- 2.1.16.1. Salary and bonus;
 - 2.1.16.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 2.1.16.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 2.1.16.4. Change in present value of defined benefit and actuarial pension plans;
 - 2.1.16.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 2.1.16.6. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.17. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 2.1.18. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

3. COMPLIANCE.

- 3.1. Grantee shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all applicable provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado, at its discretion, may provide written notification to Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3.2. Per US Treasury Final Award requirements, grantee programs or services must not include a term or conditions that undermines efforts to stop COVID-19 or discourages compliance with recommendations and CDC guidelines.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REQUIREMENTS.

- 4.1. SAM. Grantee shall maintain the currency of its information in SAM until the Grantee submits the final financial report required under the Award or receives final payment, whichever is later. Grantee shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
- 4.2. DUNS. Grantee shall provide its DUNS number to its Prime Recipient, and shall update Grantee's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Grantee's information.

5. TOTAL COMPENSATION.

- 5.1. Grantee shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 5.1.1. The total Federal funding authorized to date under the Award is \$30,000 or more; and
 - 5.1.2. In the preceding fiscal year, Grantee received:
 - 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 5.1.2.2. \$30,000,000 or more in annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 5.1.2.3. 5.1.2.3 The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

6. REPORTING.

- 6.1. If Grantee is a Subrecipient of the Award pursuant to the Transparency Act, Grantee shall report data elements to SAM and to the Prime Recipient as required in this Exhibit. No direct payment shall be made to Grantee for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of Grantee's obligations under this Grant.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR FEDERAL REPORTING.

- 7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$30,000 or more. If the initial Award is below \$30,000 but subsequent Award modifications result in a total Award of \$30,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$30,000. If the initial Award is \$30,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the Award shall continue to be subject to the reporting requirements. If the total award is below \$30,000 no reporting required; if more than \$30,000 and less than \$50,000 then FFATA reporting is required; and, \$50,000 and above SLFRF reporting is required.
- 7.2. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

8. SUBRECIPIENT REPORTING REQUIREMENTS.

- 8.1. Grantee shall report as set forth below.
- 8.1.1. Grantee shall use the SLFRF Subrecipient Quarterly Report Workbook as referenced in Exhibit P to report to the State Agency within ten (10) days following each quarter ended September, December, March and June. Additional information on specific requirements are detailed in the SLFRF Subrecipient Quarterly Report Workbooks and "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

EC 1 – Public Health

All Public Health Projects

- a) Description of structure and objectives
- b) Description of relation to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification

- v. Labor reporting

COVID-19 Interventions and Mental Health (1.4, 1.11, 1.12, 1.13)

- a) Amount of total project used for evidence-based programs
- b) Evaluation plan description

COVID-19 Small Business Economic Assistance (1.8)

- a) Number of small businesses served

COVID-19 Assistance to Non-Profits (1.9)

- a) Number of non-profits served

COVID-19 Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (1.10)

- a) Sector of employer
- b) Purpose of funds

EC 2 – Negative Economic Impacts

All Negative Economic Impacts Projects

- a) Description of project structure and objectives
- b) Description of project's response to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Amount of total project used for evidence-based programs and description of evaluation plan (*not required for 2.5, 2.8, 2.21-2.24, 2.27-2.29, 2.31, 2.34-2.36*)
- e) Number of workers enrolled in sectoral job training programs
- f) Number of workers completing sectoral job training programs
- g) Number of people participating in summer youth employment programs
- h) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification
 - v. Labor reporting

Household Assistance (2.1-2.8)

- a) Number of households served
- b) Number of people or households receiving eviction prevention services (2.2 & 2.5 only) (*Federal guidance may change this requirement in July 2022*)
- c) Number of affordable housing units preserved or developed (2.2 & 2.5 only) (*Federal guidance may change this requirement in July 2022*)

Healthy Childhood Environments (2.11-2.13)

- a) Number of children served by childcare and early learning (*Federal guidance may change this requirement in July 2022*)
- b) Number of families served by home visiting (*Federal guidance may change this requirement in July 2022*)

Education Assistance (2.14, 2.24-2.27)

- a) National Center for Education Statistics (“NCES”) School ID or NCES District ID
- b) Number of students participating in evidence-based programs (*Federal guidance may change this requirement in July 2022*)

Housing Support (2.15, 2.16, 2.18)

- a) Number of people or households receiving eviction prevention services (*Federal guidance may change this requirement in July 2022*)
- b) Number of affordable housing units preserved or developed (*Federal guidance may change this requirement in July 2022*)

Small Business Economic Assistance (2.29-2.33)

- a) Number of small businesses served

Assistance to Non-Profits (2.34)

- a) Number of non-profits served

Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (2.35-2.36)

- a) Sector of employer
- b) Purpose of funds
- c) If other than travel, tourism and hospitality (2.36) – description of hardship

EC 3 – Public Health – Negative Economic Impact: Public Sector Capacity

Payroll for Public Health and Safety Employees (EC 3.1)

- a) Number of government FTEs responding to COVID-19

Rehiring Public Sector Staff (EC 3.2)

- a) Number of FTEs rehired by governments

EC 4 – Premium Pay

All Premium Pay Projects

- a) List of sectors designated as critical by the chief executive of the jurisdiction, if beyond those listed in the final rule
- b) Numbers of workers served
- c) Employer sector for all subawards to third-party employers
- d) Written narrative justification of how premium pay is responsive to essential work during the public health emergency for non-exempt workers or those making over 150 percent of the state/county’s average annual wage
- e) Number of workers to be served with premium pay in K-12 schools

EC 5 – Infrastructure Projects

All Infrastructure Projects

- a) Projected/actual construction start date (month/year)
- b) Projected/actual initiation of operations date (month/year)
- c) Location (for broadband, geospatial data of locations to be served)
- d) Projects over \$10 million
 - i. Prevailing wage certification or detailed project employment and local impact report

- ii. Project labor agreement certification or project workforce continuity plan
- iii. Prioritization of local hires
- iv. Community benefit agreement description, if applicable

Water and sewer projects (EC 5.1-5.18)

- a) National Pollutant Discharge Elimination System (NPDES) Permit Number (if applicable; for projects aligned with the Clean Water State Revolving Fund)
- b) Public Water System (PWS) ID number (if applicable; for projects aligned with the Drinking Water State Revolving Fund)
- c) Median Household Income of service area
- d) Lowest Quintile Income of the service area

Broadband projects (EC 5.19-5.21)

- a) Confirm that the project is designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds.
 - i. If the project is not designed to reliably meet or exceed symmetrical 100 Mbps download and upload speeds, explain why not, and
 - ii. Confirm that the project is designed to, upon completion, meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.
- b) Additional programmatic data will be required for broadband projects and will be defined in a subsequent version of the US Treasury Reporting Guidance, including, but not limited to (*Federal guidance may change this requirement in July 2022*):
 - i. Number of households (broken out by households on Tribal lands and those not on Tribal lands) that have gained increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, with the number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download and number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload
 - ii. Number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) that have projected increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization, with the number of each type of institution with access to the minimum

- speed standard of reliable 100 Mbps symmetrical upload and download; and number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.
- iii. Narrative identifying speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering, technology to be deployed, miles of fiber, cost per mile, cost per passing, number of households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download, number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload, and number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization. Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

All Expenditure Categories

- a) Program income earned and expended to cover eligible project costs

8.1.2. A Subrecipient shall report the following data elements to Prime Recipient no later than five days after the end of the month following the month in which the Subaward was made.

- 8.1.2.1. Subrecipient DUNS Number;
- 8.1.2.2. Subrecipient DUNS Number if more than one electronic funds transfer (EFT) account;
- 8.1.2.3. Subrecipient parent's organization DUNS Number;
- 8.1.2.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
- 8.1.2.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and

- 8.1.2.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.
- 8.1.3. To Prime Recipient. A Subrecipient shall report to its Prime Recipient, the following data elements:
- 8.1.3.1. Subrecipient's DUNS Number as registered in SAM.
 - 8.1.3.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.
 - 8.1.3.3. Narrative identifying methodology for serving disadvantaged communities. See the "Project Demographic Distribution" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. This requirement is applicable to all projects in Expenditure Categories 1 and 2.
 - 8.1.3.4. Narrative identifying funds allocated towards evidenced-based interventions and the evidence base. See the "Use of Evidence" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. See section 8.1.1 for relevant Expenditure Categories.
 - 8.1.3.5. Narrative describing the structure and objectives of the assistance program and in what manner the aid responds to the public health and negative economic impacts of COVID-19. This requirement is applicable to Expenditure Categories 1 and 2. For aid to travel, tourism, and hospitality or other impacted industries (EC 2.11-2.12), also provide the sector of employer, purpose of funds, and if not travel, tourism and hospitality a description of the pandemic impact on the industry.
 - 8.1.3.6. Narrative identifying the sector served and designated as critical to the health and well-being of residents by the chief executive of the jurisdiction and the number of workers expected to be served. For groups of workers (e.g., an operating unit, a classification of worker, etc.) or, to the extent applicable, individual workers, other than those where the eligible worker receiving premium pay is earning (with the premium pay included) below 150 percent of their residing state or county's average annual wage for all occupations, as defined by the Bureau of Labor Statistics Occupational Employment and Wage Statistics, whichever is higher, OR the eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions, include justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers' duties, health or financial risks faced due to COVID-19 but should not include personally identifiable information. This requirement applies to EC 4.1, and 4.2.
 - 8.1.3.7. For infrastructure projects (EC 5), or capital expenditures in any expenditure category, narrative identifying the projected construction start date (month/year), projected initiation of operations date (month/year), and

location (for broadband, geospatial location data). For projects over \$10 million:

- 8.1.3.8. Certification that all laborers and mechanics employed by Contractors and Subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the Agreement work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing (1) the number of employees of Contractors and sub-contractors working on the project; (2) the number of employees on the project hired directly and hired through a third party; (3) the wages and benefits of workers on the project by classification; and (4) whether those wages are at rates less than those prevailing. Recipients must maintain sufficient records to substantiate this information upon request.
- 8.1.3.8.1. A Subrecipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing: (1) how the Subrecipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project; (2) how the Subrecipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and (3) how the Subrecipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; (4) whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and (5) whether the project has completed a project labor agreement.
- 8.1.3.8.2. Whether the project prioritizes local hires.
- 8.1.3.8.3. Whether the project has a Community Benefit Agreement, with a description of any such agreement.
- 8.1.4. Subrecipient also agrees to comply with any reporting requirements established by the US Treasury, Governor's Office and Office of the State Controller. The State of Colorado may need additional reporting requirements after this agreement is executed. If there are additional reporting requirements, the State will provide notice of such additional reporting requirements via Exhibit Q – SLFRF Reporting Modification Form.

9. PROCUREMENT STANDARDS.

- 9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.
- 9.2. Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, 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). The requirements of this section must be included in all subawards including all Agreements and purchase orders for work or products under this award.
- 9.3. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ACCESS TO RECORDS.

- 10.1. A Subrecipient shall permit Prime Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

11. SINGLE AUDIT REQUIREMENTS.

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.

- 11.1.1. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 11.1.2. Exemption. If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
- 11.1.3. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

12. GRANT PROVISIONS FOR SUBRECIPIENT AGREEMENTS.

- 12.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Grantees that are Subrecipients shall comply with the following provisions. Subrecipients shall include all of the following applicable provisions in all Subcontractors entered into by it pursuant to this Grant.
 - 12.1.1. [Applicable to federally assisted construction Agreements.] Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all Agreements that meet the definition of "federally assisted construction Agreement" 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 Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor.
 - 12.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).

- 12.1.3. Rights to Inventions Made Under a grant or agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the Prime Recipient or Subrecipient wishes to enter into an Agreement 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,” the Prime Recipient or 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, Agreements and Cooperative Agreements,” and any implementing regulations issued by the Federal Awarding Agency.
- 12.1.4. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Agreements and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal awardees 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).
- 12.1.5. Debarment and Suspension (Executive Orders 12549 and 12689). A Agreement award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in 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.
- 12.1.6. 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 Agreement, 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.
- 12.1.7. Never Agreement with the enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing “Never Agreement with the enemy” in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered Agreements, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

12.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

12.1.9. Title VI of the Civil Rights Act. The Subgrantee, Contractor, Subcontractor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S. C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CRF Part 22, and herein incorporated by reference and made part of this Agreement or agreement.

13. CERTIFICATIONS.

13.1. Subrecipient Certification. Subrecipient shall sign a "State of Colorado Agreement with Recipient of Federal Recovery Funds" Certification Form in Exhibit O and submit to State Agency with signed grant agreement.

13.2. Unless prohibited by Federal statutes or regulations, Prime Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

14. EXEMPTIONS.

14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

14.2. A Grantee with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

15. EVENT OF DEFAULT AND TERMINATION.

15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and the State of Colorado may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.

15.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:

- 15.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;
- 15.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;
- 15.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- 15.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or

By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

EXHIBIT O

AGREEMENT WITH SUBSUBRECIPIENT OF FEDERAL RECOVERY FUNDS

Section 602(b) of the Social Security Act (the Act), as added by section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021), authorizes the Department of the Treasury (Treasury) to make payments to certain Subrecipients from the Coronavirus State Fiscal Recovery Fund. The State of Colorado has signed and certified a separate agreement with Treasury as a condition of receiving such payments from the Treasury. This agreement is between your organization and the State and your organization is signing and certifying the same terms and conditions included in the State's separate agreement with Treasury. Your organization is referred to as a Subrecipient.

As a condition of your organization receiving federal recovery funds from the State, the authorized representative below hereby (i) certifies that your organization will carry out the activities listed in section 602(c) of the Act and (ii) agrees to the terms attached hereto. Your organization also agrees to use the federal recovery funds as specified in bills passed by the General Assembly and signed by the Governor.

Under penalty of perjury, the undersigned official certifies that the authorized representative has read and understood the organization's obligations in the Assurances of Compliance and Civil Rights Requirements, that any information submitted in conjunction with this assurances document is accurate and complete, and that the organization is in compliance with the nondiscrimination requirements.

Subrecipient Name _____

Authorized Representative: _____

Title: _____

Signature: _____

AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS
TERMS AND CONDITIONS

1. Use of Funds.
 - a. Subrecipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 602(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.
 - b. Subrecipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Subrecipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
3. Reporting. Subrecipient agrees to comply with any reporting obligations established by Treasury as they relate to this award. Subrecipient also agrees to comply with any reporting requirements established by the Governor's Office and Office of the State Controller.
4. Maintenance of and Access to Records
 - a. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 602(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Subrecipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Subrecipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Subrecipient may use funds provided under this award to cover both direct and indirect costs. Subrecipient shall follow guidance on administrative costs issued by the Governor's Office and Office of the State Controller.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Subrecipient.
8. Conflicts of Interest. The State of Colorado understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy

is applicable to each activity funded under this award. Subrecipient and Contractors must disclose in writing to the Office of the State Controller or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112. The Office of the State Controller shall disclose such conflict to Treasury.

9. Compliance with Applicable Law and Regulations.

a. Subrecipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

b. Federal regulations applicable to this award include, without limitation, the following:

- i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (Agreements and Subcontractors described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - i. Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - ii. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - iii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - iv. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

- v. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
10. Remedial Actions. In the event of Subrecipient's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.
11. Hatch Act. Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or Agreements, and/or any other remedy available by law.

13. Publications. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number SLFRF0126 awarded to the State of Colorado by the U.S. Department of the Treasury.”

14. Debts Owed the Federal Government.

- a. Any funds paid to the Subrecipient (1) in excess of the amount to which the Subrecipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by the Subrecipient shall constitute a debt to the federal government.
- b. Any debts determined to be owed to the federal government must be paid promptly by Subrecipient. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.

- a. The United States expressly disclaims any and all responsibility or liability to Subrecipient or third persons for the actions of Subrecipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any Agreement, or Subcontractor under this award.
- b. The acceptance of this award by Subrecipient does not in any way establish an agency relationship between the United States and Subrecipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;

- iii. The Government Accountability Office;
- iv. A Treasury employee responsible for Agreement or grant oversight or management;
- v. An authorized official of the Department of Justice or other law enforcement agency;
- vi. A court or grand jury; or
- vii. A management official or other employee of Subrecipient, Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.

c. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient should encourage its Contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

1. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees, Subrecipients, and Contractorsto adopt and enforce policies that ban text messaging while driving, and Subrecipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the Subrecipient provides the assurances stated herein. The federal financial assistance may include federal grants, loans and Agreements to provide assistance to the Subrecipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass Agreements of guarantee or insurance, regulated programs, licenses, procurement Agreements by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Subrecipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Subrecipient's program(s) and activity(ies), so long as any portion of the Subrecipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Subrecipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.
3. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

4. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Subrecipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every Agreement or agreement subject to Title VI and its regulations between the Subrecipient and the Subrecipient's sub-grantees, Contractors, Subcontractors, successors, transferees, and assignees:

The sub-grantee, Contractor, Subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits Subrecipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement or agreement.

6. Subrecipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Subrecipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Subrecipient for the period during which it retains ownership or possession of the property.
7. Subrecipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Subrecipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Subrecipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Subrecipient also must inform the Department of the Treasury if Subrecipient has received no complaints under Title VI.
9. Subrecipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Subrecipient and the administrative agency that made the finding. If the Subrecipient settles a case or matter alleging such discrimination, the Subrecipient must provide documentation of the settlement. If Subrecipient has not been the subject of any court or administrative agency finding of

discrimination, please so state.

10. If the Subrecipient makes sub-awards to other agencies or other entities, the Subrecipient is responsible for ensuring that sub-Subrecipients also comply with Title VI and other applicable authorities covered in this document. State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of sub- Subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

EXHIBIT P

SLFRF SUBRECIPIENT QUARTERLY REPORT

1. SLFRF SUBRECIPIENT QUARTERLY REPORT WORKBOOK

- 1.1 The SLFRF Subrecipient Quarterly Report Workbook must be submitted to the State Agency within ten (10) days following each quarter ended September, December, March and June. The SLFRF Subrecipient Quarterly Report Workbook can be found at:

<https://osc.colorado.gov/american-rescue-plan-act> (see SLFRF Grant Agreement Templates tab)

EXHIBIT Q

SAMPLE SLFRF REPORTING MODIFICATION FORM

Local Agency:			Agreement No:	
Project Title:			Project No:	
Project Duration:	To:		From:	
State Agency:	CDOT			

This form serves as notification that there has been a change to the reporting requirements set forth in the original SLFRF Grant Agreement.

The following reporting requirements have been (add/ remove additional rows as necessary):

Updated Reporting Requirement (Add/Delete/Modify)	Project Number	Reporting Requirement

By signing this form, the Local Agency agrees to and acknowledges the changes to the reporting requirements set forth in the original SLFRF Grant Agreement. All other terms and conditions of the original SLFRF Grant Agreement, with any approved modifications, remain in full force and effect. Grantee shall submit this form to the State Agency within 10 business days of the date sent by that Agency.

Local Agency

Date

CDOT Program Manager

Date

EXHIBIT R
APPLICABLE FEDERAL AWARDS

FEDERAL AWARD(S) APPLICABLE TO THIS GRANT AWARD

Federal Awarding Office	US Department of the Treasury
Grant Program	Coronavirus State and Local Fiscal Recovery Funds
Assistance Listing Number	21.027
Federal Award Number	SLFRP0126
Federal Award Date *	May 18, 2021
Federal Award End Date	December 31, 2024
Federal Statutory Authority	Title VI of the Social Security Act, Section 602
Total Amount of Federal Award (this is <u>not</u> the amount of this grant agreement)	\$3,828,761,790

* Funds may not be available through the Federal Award End Date subject to the provisions in §2 and §5 below.

EXHIBIT S

PII Certification

STATE OF COLORADO

LOCAL AGENCY CERTIFICATION FOR ACCESS TO PII THROUGH A DATABASE OR AUTOMATED NETWORK

Pursuant to § 24-74-105, C.R.S., I, _____, on behalf of _____ (legal name of Local Agency) (the “Local Agency”), hereby certify under the penalty of perjury that the Local Agency has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

I hereby represent and certify that I have full legal authority to execute this certification on behalf of the Local Agency.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT T

CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE

Checklist for required exhibits due to funding sources. Required Exhibits are dependent on the source of funding. This is a guide to assist in the incorporation and completion of Exhibits in relation to funding sources.

Exhibit	Funding only from FHWA	Funding only from ARPA	FHWA and ARPA Funding
EXHIBIT A, SCOPE OF WORK	✓	✓	✓
EXHIBIT B, SAMPLE OPTION LETTER	✓	✓	✓
EXHIBIT C, FUNDING PROVISIONS	✓	✓	✓
EXHIBIT D, LOCAL AGENCY RESOLUTION (IF APPLICABLE)	✓	✓	✓
EXHIBIT E, LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST	✓	✓	✓
EXHIBIT F, CERTIFICATION FOR FEDERAL-AID AGREEMENTS	✓		✓
EXHIBIT G, DISADVANTAGED BUSINESS ENTERPRISE	✓		✓
EXHIBIT H, LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES	✓		✓
EXHIBIT I, FEDERAL-AID AGREEMENT PROVISIONS FOR CONSTRUCTION AGREEMENTS	✓		✓
EXHIBIT J, ADDITIONAL FEDERAL REQUIREMENTS	✓		✓
EXHIBIT K, FFATA SUPPLEMENTAL FEDERAL PROVISIONS	✓	✓	✓
EXHIBIT L, SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT FORM	✓	✓	✓
EXHIBIT M, OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS	✓		✓

EXHIBIT N, FEDERAL TREASURY PROVISIONS		✓	✓
EXHIBIT O, AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS		✓	✓
EXHIBIT P, SLFRF SUBRECIPIENT QUARTERLY REPORT		✓	✓
EXHIBIT Q, SLFRF REPORTING MODIFICATION FORM		✓	✓
EXHIBIT R, APPLICABLE FEDERAL AWARDS		✓	✓
EXHIBIT S, PII CERTIFICATAION	✓	✓	✓
EXHIBIT T, CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE	✓	✓	✓



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 27, 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 AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND THE PUEBLO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, RELATED TO THE ESTABLISHMENT OF PUEBLO HISTORY AND ART WALK AND THE INSTALLATION OF COMMUNITY WAYFINDING AND GATEWAY SIGNS, AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT

SUMMARY:

The Ordinance will approve an Intergovernmental Agreement with the Pueblo Department of Public Health and Environment (PDPHE). The agreement allows the City of Pueblo to provide support to PDPHE in providing project support related to the establishment of Pueblo History and Art Walk as well as the installation of community gateway signs and neighborhood wayfinding signs in the Bessemer, Bojon Town, and Grove neighborhoods.

PREVIOUS COUNCIL ACTION:

On October 26, 2020, City Council approved the Colorado Smelter Revitalization Plan under Resolution No. 14496. The adopted plan identified a slate of projects related to community improvements in the Bessemer, Bojon Town, and Eilers neighborhoods of Pueblo.

BACKGROUND:

The Colorado Smelter Revitalization Plan included a number of projects that could be implemented within the Bessemer, Bojon Town, and Grove neighborhoods as funding became available. Because many of the proposed improvements are on public property or in the public right-of-way, and because the City of Pueblo, through its Public Works Department, has the ability to provide engineering and construction support for the project, PDPHE has engaged the City of Pueblo to assist with the implementation of these projects.

FINANCIAL IMPLICATIONS:

PDPHE will pay the City of Pueblo up to \$22,000 to reimburse the costs incurred for work performed under this agreement.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Projects identified for implementation have been vetted within the local community and supported by the Bessemer, Bojon Town, and Grove Improvement Network ("BEGIN") Governing Committee.

ALTERNATIVES:

Failure to approve this agreement will preclude the City of Pueblo from being able to partner with PDPHE in providing support to these projects.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Cty-PDPHE IGA - Final (221213)

ORDINANCE NO. 10309

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND THE PUEBLO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, RELATED TO THE ESTABLISHMENT OF PUEBLO HISTORY AND ART WALK AND THE INSTALLATION OF COMMUNITY WAYFINDING AND GATEWAY SIGNS, AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Intergovernmental Agreement between the City of Pueblo, a Municipal Corporation and the Pueblo Department of Public Health and Environment, 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 Intergovernmental 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

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into as of January ____, 2023, by and between the Pueblo Department of Public Health and Environment (“Department”) and Pueblo, and the City of Pueblo, a municipal corporation (“City”).

WHEREAS, the Department and the City are political subdivisions as defined in C.R.S. §29-1-201 *et seq.*, which expressly authorizes and encourages political subdivisions to cooperate and contract with another to provide goods and services as permitted by law; and

WHEREAS, Department desires to engage and City desire to perform the work and services for the Community Organizing Neighborhood Improvement (CONI) described in Exhibit A (“Projects”) attached hereto; and

WHEREAS, the City’s Public Works Department is qualified by training, education, and experience to perform said Services.

NOW, THEREFORE, FOR AND IN CONSIDERATION, of the foregoing and the mutual promises, covenants, terms, and conditions contained herein, Department and the City agree as follows:

1. **Services.** City agrees to provide all services described in the attached Exhibit A, which is incorporated herein by this reference for the Community Organizing Neighborhood Improvement (CONI) Program. City shall provide said Services as per the established completion schedule for the Services.
2. **Payment.** In consideration for Services performed herein by City, Department will pay the sum of no more than \$22,000 as described in Exhibit A, which is incorporated herein by this reference. City shall submit an invoice to receive funds as outlined in Exhibit A.
3. **Independent Contractor.** 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 Department, and shall be responsible for, and obligated to pay, all withholding taxes, social security, unemployment, worker's compensation, and/or other taxes and shall indemnify and hold the Department harmless from and against any and all claims for the same period. City acknowledges and agrees that all its personnel are its employees only, and not employees or agents of the Department for any purpose whatsoever, including for purposes of Worker’s Compensation.
4. **Term/Termination.** The term of this Agreement shall commence on the effective date, all projects must be completed by April 15, 2022, and shall remain in effect for a term of two years, unless terminated sooner as provided herein. The parties may terminate this agreement at any time and for any reason by giving thirty (30) days prior written notice to the other party. In addition, Department may terminate this Agreement immediately if (i) Department funding for the Services is terminated, (ii) City fails to timely and satisfactorily perform the Services, (iii) or City is in default under any provision of this Agreement.
5. **Insurance.** The City is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the “GIA”) and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA.

6. **Liability Exposure.** Notwithstanding any other provision of this Agreement, no term or condition of this Agreement shall be construed or interpreted as a waiver of any provision of the Colorado Governmental Immunity Act, C.R.S. §24-10-101, *et seq.*
7. **Complete Agreement.** This Agreement constitutes the complete Agreement on the subject hereof and supersedes and replaces all prior oral and written understandings and/or agreements of the parties on the subject hereof.
8. **Governing Law.** This Agreement and the rights and duties of the parties shall be construed and interpreted and enforced in accordance with the laws of the State of Colorado.
9. **Modifications.** This Agreement may not be modified or amended in any manner by either or both of the parties unless the same is set forth in a written agreement making reference to this Agreement and signed by the parties hereto. No waiver of any of this Agreement's provisions or conditions shall be binding unless made in writing and signed by both parties to this Agreement.
10. **Binding Agreement.** When executed by the parties, this Agreement shall constitute a binding Agreement and shall be binding upon and inure to the benefit of the parties and their respective legal representatives, successors and permitted assigns. Any delegation or assignment of this Agreement or any of the obligations set forth herein by either party without the prior written consent of the other party shall be void and of no force and effect.
11. **Severable.** If any provision of this Agreement shall be determined to be invalid, illegal or without force by a Court of Law or rendered so by legislative act, the remaining provisions shall remain in full force and effect.
12. **Waiver.** Failure to exercise any remedy which either party may have under this Agreement or any other acquiescence by one party, shall not constitute a waiver of any obligation of the defaulting party hereunder.
13. **Notices.** All notices required under this Agreement shall be sent in writing by certified or registered mail, return receipt requested, to the following address:

City of Pueblo Public Works Department
Attn: Director
211 E. D Street
Pueblo, CO 81003

and

Pueblo Department of Public Health & Environment
Attn: Public Health Director
101 W. 9th Street
Pueblo, CO 81003

*** **SIGNATURE PAGES FOLLOW** ***

IN WITNESS WHEREOF, the parties have executed this Agreement effective the date first above written.

Pueblo Department of Public Health and Environment

By: _____
Randy Evetts, Pueblo Health Director

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, as Public Health Director, Pueblo Department of Public Health and Environment.

Witness my hand and official seal.

[S E A L]

My commission expires _____.

Notary Public

Approved as to form:

Department Attorney

City of Pueblo, Colorado, a Municipal Corporation

By: _____
Nicholas A. Gradisar, Mayor

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, as Mayor of the City of Pueblo, a Colorado Municipal Corporation.

Witness my hand and official seal. [S E A L]

My commission expires _____.

Notary Public

Approved as to form:

City Attorney

SCOPE OF SERVICES

Exhibit A

Project Overview: The Colorado Smelter Revitalization Project (CSRP), adopted by Pueblo City Council in October 2020, identified a slate of projects for community improvements in the Bessemer, Bojontown, and Grove neighborhoods within the City of Pueblo. Some of the projects identified within the plan included the establishment of a Pueblo History and Art Walk which includes the creation of unique art pieces from local artists for installation along a designated pathway. The Department received grant funding through the Colorado Health Foundation via the Community Organizing Neighborhood Improvement (CONI) grant program to install certain improvements including public art exhibits, pathway signs and markers, neighborhood wayfinding signs, and community gateway signs in support of the larger approved project plan. The Department has expressed its desire to engage the City of Pueblo via the City's Public Works Department to perform certain elements of work. This agreement between the City and the Department is intended to codify roles and responsibilities of both parties and clarify the scope of services to be provided by the City in support of the project.

The Department and the City have designated the following staff members within each organization as project points of contact, which may be updated from time to time as agreed to by the parties:

- PDPHE Contact: Darena Herschler, herschlerd@pueblocounty.us
- PDPHE Financial Contact: Georgia Alfonso, georgia.alfonso@pueblocounty.us
- City of Pueblo Public Works Contact: Andrew Hayes, ahayes@pueblo.us

A map of the Pueblo History and Art Walk pathway is included as Attachment 1.

Project Scope:

1. City authorizes Pueblo Department of Public Health and Environment (PDPHE) staff to place path markers in the Bessemer, Bojon Town, and Grove neighborhoods along the Pueblo History and Art Walk as described in Attachment 2. Path markers that become loose, damaged, dislodged, or otherwise present a nuisance or hazard may be removed by the City without notice. City will endeavor to replace such markers if replacements are available.
2. City grants permission for PDPHE third party contractor(s) to install printed wraps on pre-approved City-owned utility boxes throughout the Bessemer, Bojon Town, and Grove neighborhoods. The City may remove any wraps that become loose, damaged, or otherwise present a nuisance or hazard without notice. While City will endeavor to protect installed wraps, equipment failures or damage may require that the utility box be replaced. A map showing the approved wrap installation locations is included as Attachment 3.
3. City will provide installation materials and labor to install wayfinding signage in the Bessemer, Bojon Town, and Grove neighborhoods in approved locations along the Pueblo History and Art Walk as shown in Attachment 4. Up to three map signs (approximately two feet wide by two feet high) will be installed by a separate Department contractor on City wayfinding sign poles. Department agrees to coordinate installation and acceptance of map signs with City.
4. City will install pre-approved anchoring platforms in approved locations along the Pueblo History and Art Walk to safely secure public art pieces located at parcel 1501142017, parcel 1406324014, parcel 1501304008, parcel 1501139009 and parcel 536307017.
5. With respect to the two (2) art pieces and three (3) bench art pieces to be installed in approved locations along the Pueblo History and Art Walk as shown in Attachment 5, such installation shall be subject to and conditioned upon donation to and acceptance by the City of such art pieces.

6. City will provide material handling equipment and transportation support to assist in the installation of designated art pieces and benches at approved locations along the Pueblo History and Art Walk as listed in Attachment 5.
7. City will provide the necessary equipment, and operator to install the “Pueblo Sails” art piece on an approved location at the southerly end of the Clark Street right-of-way along the Pueblo History and Art Walk pathway.
8. As owners of the public art exhibits, City will provide liability insurance coverage for the art pieces and sites for the Pueblo Sail and bench art pieces after installation and subject to and conditioned upon donation to and acceptance by the City of such art pieces.
9. City will display three (3) bench art pieces at approved locations on parcel 1501142017 in Moynihan Park, parcel 1406324014, and in city right of way at the intersection of Summit Avenue and Orman Avenue. Where benches are proposed to be installed within a City Park, the location shall be subject to the approval of the City’s Director of Parks and Recreation. Where benches are proposed to be installed within the public right-of-way, the location shall be subject to the approval of the City’s Director of Public Works. The City retains the right, at its sole discretion, to relocate the benches to other locations for public enjoyment within the City at its expense. The City also retains the right to remove and dispose of any bench if it is determined to be a nuisance or if they are damaged beyond repair. Disposal of the benches shall be subject to the terms and conditions of any existing agreements with the Artist.
10. City will install landscape improvements around the art piece “Pueblo Sails” located on the Pueblo Levee across from parcel 1501139009 and one (1) bench art piece in approved city right of way at the intersection of Summit Avenue and Orman Avenue along the Pueblo History and Art Walk pathway. The landscaping plan shall be mutually agreed upon by the Department and the City.
11. City will seek community input for the design of the community gateway sign to be installed over Northern Avenue near Bessemer and Bojon Town through engagement with the Bessemer Bojontown and Grove Improvement Network Governing Committee (“BEGIN”).
12. City will fabricate and install three (3) neighborhood wayfinding signs in Bessemer, and update the existing wayfinding sign in Bojon Town in a style similar to other wayfinding signs in the City, as shown in Attachment 6.
13. City will accept and install one (1) community gateway sign in the Grove neighborhood.
14. City shall endeavor to complete all projects by April 15, 2022. City shall submit a final invoice to the Department for work completed as of April 15, 2022. The City may be reimbursed the value of such work up to \$22,000.00 for tasks performed in accordance with this scope of services. Department agrees to process payment of submitted invoice within 30 days of receipt by Department.

Attachment 1 – Pueblo History and Art Walk Pathway Map



Attachment 2 – Pathway Markers



Location of Placement

The path markers used for the Pueblo History and Art Walk will be placed in the public right of way on concrete curb if possible, in areas where;

1. A change of direction is required to stay on the Pueblo History and Art Walk paths **OR**
2. Every 1/8 mile along the Pueblo History and Art Walk

The path markers will be placed in the top left corner of the cement curb as close to the final cement sidewalk block located at each designated area facing the direction where pedestrians are approaching from.

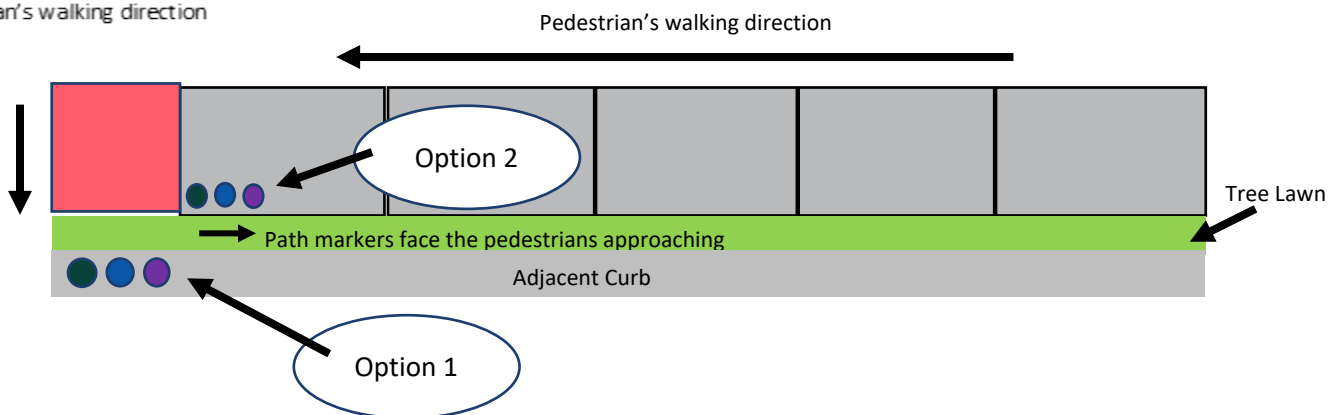
If the path markers cannot be placed in the location specified, the individual, group, or entity altering or adding path markers are expected to work with the City of Pueblo's Public Works Director to determine the second-best location for the markers.

The individual, group, or entity will need verbal or written approval from the Public Works Director prior to installing the path markers in a different location than specified above.

An example of placement is shown below.

Pedestrian must turn left and cross the street to complete the walk

Pedestrian's walking direction



Order of Placement

For continuity purposes, the path markers will be stacked vertically on top of each other and face the direction where pedestrians are approaching.

The path markers will be placed in the descending order as described below.

- Green first, Blue second, Purple third.

If a path marker is not needed at a specific location, it will not be placed in the order and all remaining path markers will shift up vertically, if necessary, keeping their order.

An example of Order of Placement is shown below.

Example: When all three loops align (Not to Scale Scale)

Example: When only two loops align (Not to Scale)



Attachment 3 – Utility Box Wrap Locations

Utility box at the corner of S Santa Fe and E Mesa Ave. Right next to Jeannie's Dance Studio located at 1143 S Santa Fe Ave.



Two utility boxes off B street and Clark. It is in the parking lot across from Our Lady of Mt. Carmel Church. The church is located at 421 Clark St, Pueblo CO 81003.



Benedict Park



Utility box on the Northeast corner of Northern Ave and Pine St. Located on the pedestrian light pole. It is right next to the Pawn Shop located at 623 West Northern Ave, Pueblo CO, 81004.



Side
obstacle



Utility box at the Northeast corner of Northern Ave and Evans Ave. Located on the pedestrian light pole. It is across the street from Boost Mobile located at 322 West Northern Ave, Pueblo, CO, 81004.



Side
obstacle



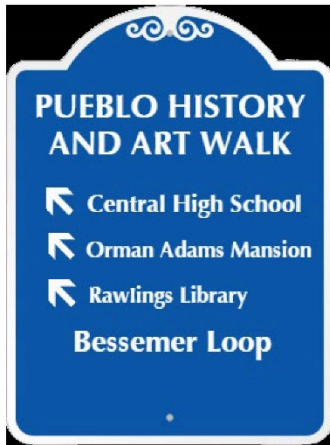
Utility box at the Northeast corner of Northern Ave and Abriendo Ave. located on the pedestrian light pole. It is in front of the abandoned building next to Myxed Up Creations located at 217 W Northern Ave, Pueblo CO, 81004.



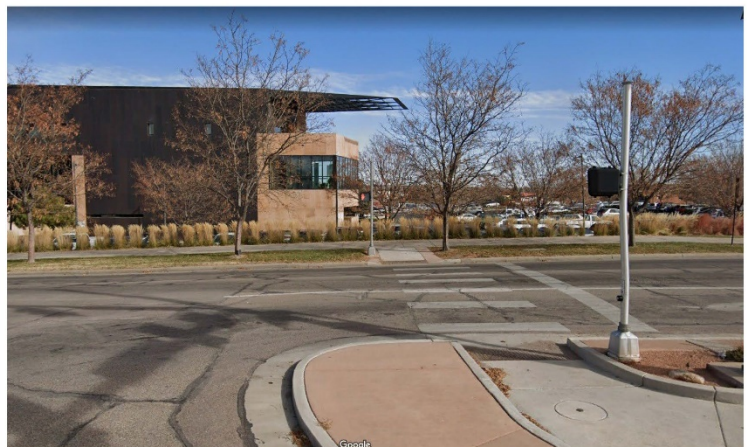
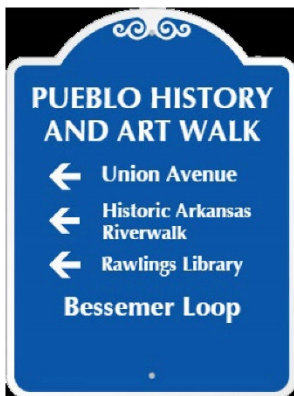
Side
obstacle



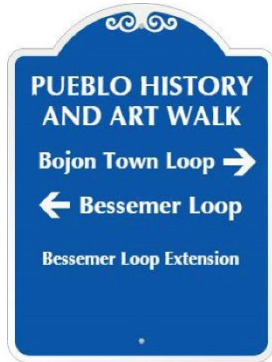
Summit and E Orman Avenue



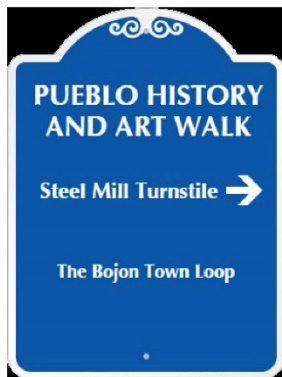
Rawlings Library Location



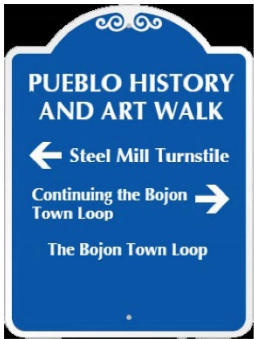
E Mesa and Berwind Avenue



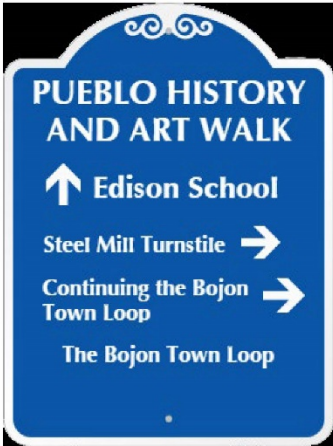
Turnstile Gate Location



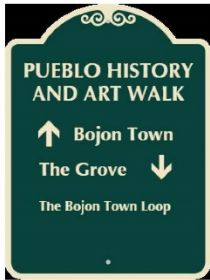
Egan Avenue and E Northern Avenue



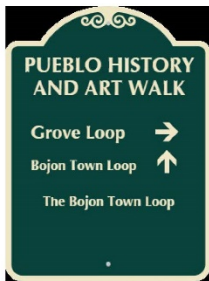
Egan Avenue and E Mesa Avenue



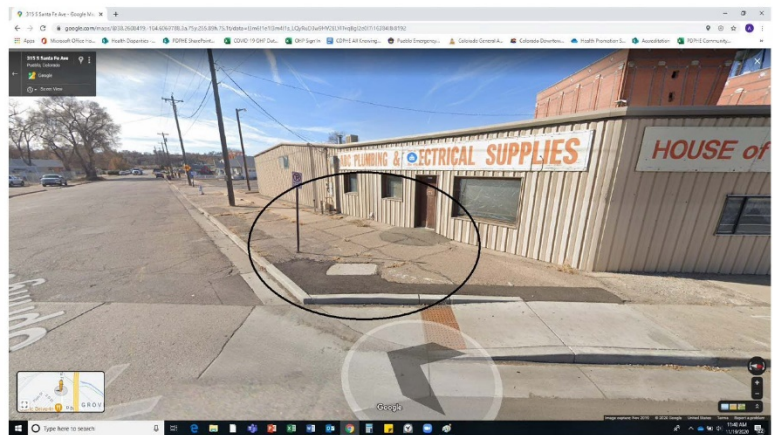
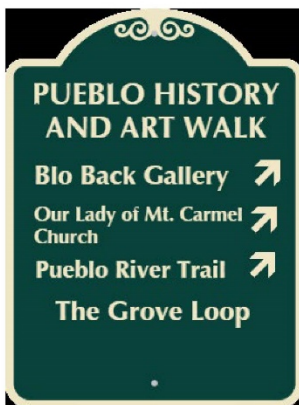
Santa Fe Avenue



Clark Street and E B Street



Santa Fe Avenue and E Spring Street



Attachment 5 – Artwork Location Photos

Bench Art – Summit Ave. and Orman Ave.



Rawlings Library (Photo Blast)



Pueblo Levee (Pueblo Sails)



Bench Art – Moynihan Park





Attachment 6 – Typical Community Wayfinding Sign Example





Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 27, 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 AN AIRPORT USE AND LEASE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SOUTHERN AIRWAYS EXPRESS, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

An Airport Use and Lease Agreement between the City of Pueblo and Southern Airways Express, LLC (Southern Airways), is attached for consideration. This agreement covers the use of certain areas in the Airport Terminal building for providing passenger airline service at Pueblo Memorial Airport.

PREVIOUS COUNCIL ACTION:

City Council approved this same type of agreement with SkyWest Airlines on November 13, 2017, to cover the previous U.S. Department of Transportation (USDOT) agreement term. This Agreement with Southern Airways Express, LLC, will cover the new USDOT agreement term.

BACKGROUND:

Air service at the Pueblo Memorial Airport is under the Federal Essential Air Service (EAS) program, which is managed by the USDOT. On July 5, 2022, the USDOT issued a request for proposals from airlines to provide air service at Pueblo, CO for the term beginning January 1, 2023 and ending January 31, 2024. Only Southern Airways submitted a proposal. Based on the sole submittal and with agreement from the community, the USDOT awarded the contract for 2 years. SkyWest has been ordered to hold in place until January 8, 2023. The Agreement between the City and Southern Airways is for the use of Airport facilities.

FINANCIAL IMPLICATIONS:

The revenue from this agreement will to be about \$19,560.00 annually, as determined by the following:

1. Southern Airways will pay the City \$19,560.00 annually for exclusive use of counter space, office space, and outbound baggage area. This is an increase from SkyWest's annual rent of \$19,515.00.
1. The aircraft operated under the EAS contract will not generate landing fees because they do not meet the maximum gross landing weight threshold set by Pueblo Municipal Code.
1. Partial rent forgiveness is offered for the 2024 contract term if Southern Airways enplanes more than 10,000 passengers through either regularly scheduled flights or charter flights. The FAA considers airports that have less than 10,000 passengers annually as a Nonprimary Commercial Service Airport rather than a Primary Service Airport. Airports with more than 8,000 enplanements but fewer than 10,000 are eligible for the \$600,000 apportionment each fiscal year, whereas airports with over 10,000 enplanements qualify for \$1,000,000 in funds. The rent forgiveness is incentivization to reach the number of passengers which will qualify the Airport for the higher apportionment of funds.

BOARD/COMMISSION RECOMMENDATION:

The Airport Advisory Committee is aware of the award from the USDOT and is in support of the air carrier's proposal as the only submittal.

STAKEHOLDER PROCESS:

There is no stakeholder process required.

ALTERNATIVES:

If this Resolution is not approved, Southern Airways would not be able to meet its obligation to the USDOT and the City would have a commercial service provider.

RECOMMENDATION:

The Department of Aviation recommends the passage of this resolution.

ATTACHMENTS:

1. Southern Airways Express Lease

ORDINANCE NO.

AN ORDINANCE APPROVING AN AIRPORT USE AND LEASE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SOUTHERN AIRWAYS EXPRESS, 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, Southern Airways Express, LLC, is desirous of leasing certain property for the purpose of a commercial service airline 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 Airport Use and Lease Agreement ("Lease"), by and between the City of Pueblo, a Municipal Corporation, and Southern Airways Express, LLC, a Limited Liability Company, to lease space for a commercial service airline 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 _____.

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

**PUEBLO MEMORIAL AIRPORT
AIRPORT USE AND LEASE AGREEMENT**

THIS AIRPORT USE AND LEASE AGREEMENT ("Lease"), is made and entered into this 9th day of January, 2023, by and between the City of Pueblo, a Municipal Corporation, with an address of One City Hall Place, Pueblo, Colorado 81003, ("Lessor") and Southern Airways Express, LLC, with an address of 2875 South Ocean Boulevard, Suite 201, Palm Beach, Florida 33480 ("Lessee").

WHEREAS, Lessor owns certain real property in the County of Pueblo, State of Colorado, known as the Pueblo Memorial Airport ("Airport"), together with the land on which said Airport is situated, and Lessee is engaged in the business of transporting persons, property, cargo, and mail by air; and

WHEREAS, Lessor desires to grant the use of, and Lessee desires to use, certain premises and facilities at the Airport, together with certain rights, licenses, and privileges thereon.

NOW, THEREFORE, Lessor does hereby grant unto Lessee for the purpose of conducting its air transportation service business, and Lessee does take and accept from Lessor, for such purpose, the use of certain premises and facilities, rights, licenses, services, and privileges in connection with and on the Airport as follows.

I. AIRPORT USE AND LEASE.

A. Airport.

Lessor grants to Lessee the non-exclusive use of the common areas of the Airport and its appurtenances including, if available and functioning, but not limited to, landing field, runways, aprons, taxiways, roadways, sewer and water facilities, flood lights, landing lights, and all conveniences for flying, landing, and take-offs of aircraft of Lessee, which use shall include the operation of a transportation system by Lessee's aircraft for the carriage of persons, property, cargo, and mail, including without limitation, loading and unloading of its aircraft, the right to load and unload persons, property, cargo, and mail at the Airport by such automobiles, buses, trucks or other means of conveyances as Lessee may require in the conduct of its business, and the right to install, maintain, use and operate such radio, communications, meteorological and aerial navigation equipment and facilities in, on, or about the Airport as may be deemed necessary by Lessee for its operations provided same shall not interfere with Lessor's, or Federal Aviation Administration's ("FAA"), existing or expanded equipment and facilities, as well as the right, subject to Lessor's approval, to install advertising signs, and any other operation or activity reasonably necessary to the conduct by Lessee of its air transportation service business or training of its personnel, provided such other operation or activities will not interfere with the use of the Airport by Lessor or its employees, agents, or other tenants and such other operation or activities are used on the Airport. All worn, faded, damaged, or outdated signs will be repaired or corrected by Lessee upon notice from the Director of Aviation

B. Terminal Building.

1. Lessee shall be entitled to the use of the following leased premises in the

terminal building:

- a. Counter Space – 178.5 square feet
 - b. Office Space – 290.5 square feet
 - c. Outbound Baggage Space – 660 square feet
 - d. Inbound Baggage Carousel (non-exclusive use)
2. The Lessor shall designate the specific areas to be used by Lessee. Lessee's designated spaces are shown in Exhibit "A," attached hereto and incorporated herein.
 3. Indoor operation of gasoline-powered equipment is prohibited in the terminal building, including the baggage and freight handling areas.
 4. Areas will be designated for parking and storage of equipment, machinery, and vehicles between flight times.
 5. Employees of the Lessee shall park in designated parking areas while working with the understanding that public parking is meant for the use of passengers, guests, and patrons.
 6. Lessee, its employees, passengers, guests, patrons, and invitees shall have the use, in common with others, of any public space now available, or which may hereafter become available, in the terminal building, including, but not limited to, waiting rooms, restrooms, baggage collection areas, and security.

C. Other.

1. Lessee shall have the non-exclusive right of ingress and egress, without charge, to and from the premises outlined in Paragraph I.B above.

2. Lessee may purchase or otherwise obtain property, facilities, or services deemed by Lessee to be required by, or incident to, its operations from any persons or organizations it may choose, provided that such suppliers of materials and furnishers of service have complied with the requirements of federal law and Section 3-1-2(c) of the Pueblo Municipal Code to the extent applicable; and further provided, persons or organizations furnishing charter aircraft services to Lessee in substitution of Lessee's scheduled flights shall be exempt from the requirements of said Section 3-1-2(c).

3. The leased premises will be used for the regular business of a full service air carrier. Any aircraft stored at the Airport must be continually registered with the 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.

4. This Lease and Lessee's use of the Airport 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 Airport and its uses.

5. 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.

II. TERM.

- A. The term of this Lease shall be for the period commencing January 15, 2023, and ending January 31, 2025. Unless terminated earlier as provided herein, this Lease shall expire and terminate at the end of the term and Lessee shall have no further right or interest in the leased premises, except that upon early termination of this Lease for any reason, Lessee shall have the right for a period of ten days after the date of termination, to remove any or all of its personal property from the Airport, provided, however, that Lessee shall not be in default in its payments to the Lessor hereunder and Lessee shall repair all damage to the Airport caused by such removal.
- B. Should Lessee holdover the use of or continue to occupy the leased premises after the expiration or termination of this Lease, such holding over shall be deemed merely a tenancy for successive monthly terms upon the same terms and conditions as provided in this Lease, subject to termination upon thirty (30) days prior written notice. Lessee shall continue to pay rent without an express written agreement as to such holding over, except that, the monthly rent will become equal to one hundred twenty-five percent (125%) of the rent for the last month payable hereunder.
- C. Notwithstanding the foregoing, should the Federal Department of Transportation ("DOT") mandate a hold and that Lessee continue to provide services at the Airport past the Lease termination date, the term of this Lease will be automatically extended to the end of the federally mandated hold period upon the same terms and conditions of this Lease and without an increase in rent for said period.

III. RENTALS AND FEES.

- A. Lessee shall pay to Lessor monthly as rent for the leased premises and use of the Airport covered by this Lease, \$1,630.00 per month. The total yearly rent for the leased premises and use of the Airport is \$19,560.00.
- B. The rents 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.
- C. 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, landing fees, permit fees, security charges, and administrative or service fees.

- D. 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.
- E. Should Lessee reach 10,000 enplanements at the Airport through regularly scheduled services and charter flights within the federal fiscal year, and such enplanements qualify the Lessor as a Primary Service Airport with the FAA and Lessor receives at least \$1,000,000.00 from the FAA as its federal apportionment because of such status, Lessee shall not have to pay the rent set forth in Section III.A from January 1, 2024 through October 31, 2024. Rent shall only be waived for the stated months and said rent waiver is conditioned on Lessee providing evidence that it spent at least \$20,000.00 on marketing per Section IV.
- F. Lessee agrees to pay the standard rate for all flights of the Lessee that land at the Airport, to include any flight that is diverted to the Airport by the Lessee, provided, however, that no fee shall be due and payable in the event an aircraft departs from the Airport to return and land at the Airport because of meteorological conditions, mechanical or operating causes, or for any similar emergency or precautionary reason. The standard rate is currently set at \$1.00 per maximum landing weight ("MLW") over 25,000 pounds for non-signatory landing fees. The standard rate may be updated by Lessor periodically in accordance with FAA regulations and municipal ordinance.
- G. Within five (5) days following the end of each calendar month, the Lessee shall transmit to the Director of Aviation a true and accurate report, giving data necessary to calculate the amount of standard rate fees. Data for training flights at Pueblo is to be included. Lessee agrees to pay standard rate fees monthly within thirty (30) days of date of statements from Lessor.

IV. USE OF AIRPORT AND LEASED PREMISES.

- A. The Airport and leased premises shall be used and occupied by Lessee as a full service air carrier. The terminal 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. Lessee shall not park or leave, or allow to be parked or left, aircraft on the taxiways or on pavement 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. Nothing in this agreement provides

exclusive access to the entrance and exit gates into and out of the Airport to Lessee.

- C. Lessee, its employees, and invitees shall have the right of ingress and egress between designated Airport access points and areas of use 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 areas of use shall be located as designated by the Lessor through the Director of Aviation.
- D. On the Effective Date, as later defined, 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.
- E. 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.
- F. Lessee shall use the 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.

V. MAINTENANCE OF AIRPORT.

- A. Lessor shall provide all maintenance services required to keep in good repair the Airport terminal building and all appurtenances, facilities, and services now or thereafter connected with the foregoing, and shall operate the Airport in a manner at least equal to the standards or ratings of Airports of similar size and character issued by the FAA. Lessor shall maintain the premises leased hereunder for Lessee's use in a good condition and shall provide maintenance necessary to accomplish that end. Lessor reserves the right, but shall not be obligated to Lessee, 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. Notwithstanding the foregoing, Lessee shall be responsible for repairing any damage to the Airport or its facilities caused by it or its agents, employees, or invitees other than that due to normal wear and tear. If Lessor fails to make such repairs or if Lessor shall be in default in the performance of any provision of this Lease, such failures or default shall not give rise to any action or claim by Lessee or its agents, employees, or invitees against Lessor. Lessee's only remedy for such failure or breach is to terminate this Lease.
- B. Lessee shall, at its own expense, keep the leased 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.

- C. All maintenance associated with Lessee's services and its enplanements and deplanements shall be the responsibility of Lessee. Lessee shall be responsible for snow and ice removal from the doors of its airplanes to the airport terminal building. Lessor will not provide ice melt, shovels, or other equipment, but Lessee may store such equipment in the outbound baggage space.

VI. UTILITY COSTS.

Lessor shall be responsible for all utilities supplied to the leased premises and Airport. Additions, deletions, or adjustments to utilities extended to the areas used by Lessee shall not be made without prior written approval from the Director of Aviation. Costs for utilities shall be incorporated within stated rent amounts.

VII. RIGHT OF INSPECTION.

The Lessor reserves and retains for its officers, employees, and authorized representatives the right to enter the leased premises and any other area of the Airport during reasonable business hours, and after prior notice, for the purpose of inspecting and protecting the leased premises and Airport and for doing any and all things which the Lessor may deem necessary for the proper general conduct and operation of the Airport and in the exercise of the Lessor's police power.

VIII. IMPROVEMENTS BY LESSEE.

- A. Lessee, at its own expense, may construct, install, alter, modify, repair, and maintain in or on any space which is or may be leased by Lessee hereunder and described in Paragraph I.B, any improvements that it shall determine to be necessary for use in connection with its business. No restrictions shall be placed upon Lessee as to the architects, contractors, or materialmen who may be employed by it in connection therewith, who shall have free ingress and egress from said premises. Notwithstanding the foregoing, no improvement to or modification of the leased premises shall be made by Lessee until plans and specifications therefore have been first approved by Lessor, which approval shall not be unreasonably withheld, and provided the construction and installation of such improvement to or modifications of the leased premises shall be in compliance with all applicable laws and codes and shall not unreasonably interfere with Lessor's operation of the Airport or terminal building or other lessees' use thereof. Lessee shall ensure no liens are placed on Lessor's property for such work and shall defend and indemnify Lessor from the same.
- B. All structures and improvements constructed or erected hereunder by Lessee, excluding movable trade fixtures, shall constitute a part of the leased premises and Airport and therefore such structures and improvements cannot be removed from the land. Fee simple title to the structures and 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 structures and 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.

IX. 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 and the leased premises, 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 covenants and agrees not to permit any mechanic's or material man's lien to be filed against the leased premises, Airport, 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 Airport, 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 and Airport 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.

X. LIABILITY AND INSURANCE.

- A. Lessee agrees to indemnify, defend, and save and keep Lessor, its officers, agents and employees, harmless from any and all loss, expense, including reasonable attorney fees, claims, demands, or liability, resulting from the use of the Airport, terminal building, Lessee's designated space, and all other Airport facilities, by Lessee or any of its employees, agents, licensees, or invitees in their use and occupancy thereof. 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, terminal building, and other facilities and Lessor shall not be liable or responsible for any such loss, damage, or injury, regardless of the cause thereof.
- B. Lessee shall obtain and maintain in effect, at Lessee's expense, during the term of this Lease, Aircraft Liability Insurance covering both owned and non-owned aircraft with coverage for both aircraft passengers and non-passengers. The Aircraft

Liability Insurance shall be written with a combined single limit for bodily injury and property damage of \$5,000,000.00 per occurrence and \$10,000,000.00 aggregate.

- C. Lessee shall also obtain and maintain in effect at Lessee's expense, during the term of this Lease, Airport Liability Insurance, covering the premises operations of Lessee, including operation of mobile equipment, with a combined single limit of not less than \$25,000,000.00 for bodily injury and property damage, and such insurance shall include Products & Completed Operations, Contractual Legal Liability, and Personal Injury Legal Liability. The policy shall apply to liability assumed by the Lessee under this Lease, and this Lease shall be deemed to be an "Airport Contract" required by Lessor as a governmental authority as a prerequisite for the use of the Airport, the terminal building, and Lessee's designated space.
- D. 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).
- E. Lessee shall obtain and maintain in force, at Lessee's expense, during the term of this Lease, Pollution Liability Insurance covering its liability for bodily injury, property damage, and environmental damage resulting from sudden and accidental releases of pollution, and covering related or resultant characterization, cleanup and/or remediation costs arising from the occupancy and use of the Airport, terminal building, and designated space. Combined single limit bodily injury, property damage, environmental liability and cleanup/remediation shall not be less than \$1,000,000.00 in the annual aggregate.
- F. Lessee shall obtain and maintain Workers' Compensation and Employer's Liability coverage protecting Lessee against all claims under applicable State Workers Compensation laws. This coverage shall include all of Lessee's employees, including the owner(s), and shall contain an endorsement waiving subrogation against the City of Pueblo.
- G. Prior to the effective date of this Lease, Lessee shall furnish Lessor with a certificate of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements shown above.
- H. Coverage and limits enumerated in this lease insurance provision represent only the minimum insurance required by the City of Pueblo, and Lessee should rely on its own expertise to obtain any additional insurance coverage needed to protect the City of Pueblo and the Lessee under this lease agreement and meet or exceed industry standards.
- I. In the event the premises covered by this Lease are wholly or partially destroyed or damaged so as to render the whole or a substantial part thereof unfit for occupancy, and the same cannot be repaired with reasonable diligence within one hundred twenty (120) days after the happening of such destruction or damage, or if Lessor, in its sole judgment determines that it is not economically feasible to repair same, then this Lease, at the option of the Lessor, shall cease and terminate as of the date of such damage or destruction. Upon such termination, Lessor shall

repay to Lessee any rents theretofore paid by Lessee with respect to any period after the date of such termination. Lessee shall surrender possession of the premises to the Lessor upon such termination. If, in the sole opinion of Lessor, such destruction or damage can be repaired within one hundred twenty (120) days, Lessor shall forthwith repair the same with all reasonable diligence, and this Lease shall continue in force and effect. During the period of such repair, the rent shall be abated in the same ratio as that portion of the premises which is rendered unfit for occupancy bears to the whole.

XI. CANCELLATION BY LESSOR.

Lessor, in addition to other rights of termination or cancellation given herein or by law, may cancel this Lease and terminate all or any of its obligations hereunder by giving Lessee thirty (30) days advanced written notice, upon or after the happening of any one of the following events:

- A. The filing of Lessee of a voluntary petition in bankruptcy.
- B. The adjudication of Lessee as bankrupt pursuant to such proceeding.
- C. The appointment of a receiver of Lessee's assets or the divestiture of Lessee's estate herein by operation of law.
- D. The abandonment by Lessee of its conduct of air transportation service at the Airport.
- E. The default by Lessee in the performance of any covenant or agreement herein required to be performed by Lessee and the failure by Lessee to remedy such default for a period of thirty (30) days after receipt from Lessor of written notice to remedy the same; provided, however, that no notice of cancellation, as above provided, shall be of any force or effect if Lessee shall have remedied the default prior to receipt of Lessor's notice of cancellation.
- F. Recapture of the Airport by the federal government and assumption of control over aviation activities at the Airport by the federal government for a period of more than thirty (30) days.
- G. Issuance by any court of competent jurisdiction of any injunction in any way preventing or restraining the use of the Airport or any part thereof for airport purposes, and such injunction remaining in force for a period of at least thirty (30) days.

XII. CANCELLATION BY LESSEE.

Lessee, in addition to any other rights of termination or cancellation given herein or by law, may cancel this Lease and terminate all or any of its obligations hereunder at any time that Lessee is not in default in its payments to Lessor by giving Lessor thirty (30) days advance written notice upon or after the happening of any one of the following events:

- A. The order or the action of the Federal Department of Transportation or other governmental authority terminating, suspending, or relieving Lessee's right or

obligation to operate.

- B. Issuance by any court of competent jurisdiction of any injunction in any way preventing or restraining the use of the Airport or any part thereof for airport purposes, and such injunction remaining in force for a period of at least thirty (30) days.
- C. Any action by the federal government or its agencies refusing to permit Lessee to operate into, from, or through the Airport such aircraft as Lessee may reasonably desire to operate thereon, if such action prevents Lessee from providing essential air services to Pueblo.
- D. The inability of Lessee to use leased premises and facilities continuously for a period of longer than thirty (30) days due to any deficiency of the Airport or unsafe condition for operating at the Airport of the type of aircraft then being flown by Lessee or any law, order, rule, or regulation of any appropriate governmental authority having jurisdiction over the operations of Lessee, or due to war or other casualty.
- E. The assumption by the United States Government or any authorized agency thereof of control of said Airport and facilities or any substantial parts thereof.
- F. The erection of any obstacle on or near the Airport which would occasion a modification of Lessee's air carrier operating certificate or similar authorization establishing minimum safety standards for the operation of Lessee.
- G. Unless the Federal Department of Transportation mandates a hold and that Lessee must continue to provide services at the Airport, at the expiration or termination of any Essential Air Service Contract ("EAS Contract") between Lessee and the United States Department of Transportation ("DOT") or any governmental agency succeeding to the jurisdiction of the DOT, under which EAS Contract Lessee has or had agreed to provide Essential Air Services to The City of Pueblo, Colorado.

XIII. ASSIGNMENT.

Lessee may not assign or sublease the premises leased hereunder without the prior written consent of Lessor, which may be granted or denied in its sole and absolute discretion, except an assignment to a successor corporation which has merged with, or acquired substantially all the assets of the Lessee, if such successor corporation provides sufficient financial statements and records to Lessor demonstrating its financial ability to perform this Lease and specifically agrees in writing to perform this Lease. Any assignment made hereunder may be conditioned upon the payment of an assignment fee to be determined by the Lessor and/or an increase in rent.

XIV. APPLICATION OF PUEBLO MUNICIPAL CODE.

All terms and conditions of this Lease are hereby made subject to the provisions of the Pueblo Municipal Code, including but not limited to Title III, Chapter 1 thereof, and in event of conflict between said Pueblo Municipal Code and any provision herein, said Pueblo Municipal Code shall control.

XV. REGULATION.

- A. Lessee agrees to observe and obey all reasonable regulations imposed by Lessor during the term hereof, provided the same are consistent with safety and do not conflict with the regulations and procedures prescribed by the FAA for operation of Lessee's aircraft at the Airport.
- B. This Lease is subject to prior FAA approval.

XVI. NOTICES.

Notices to Lessor provided for herein shall be sufficient if served personally or sent by certified mail, return receipt requested, addressed to: Director of Aviation, Pueblo Memorial Airport, 31201 Bryan Circle, Suite 200, Pueblo, Colorado 81001; and notices to Lessee, if sent by certified mail, return receipt requested, addressed to: Southern Airways Express, LLC, 2875 South Ocean Boulevard, Suite 201, Palm Beach, Florida 33480; or to such other respective addresses as the parties may designate to each other in writing from time to time.

XVII. INVALID PROVISION; SEVERABILITY.

It is further expressly understood and agreed by and between the parties hereto that in the event that any covenant, condition, or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition, or provision shall in no way affect any other covenant, condition, or provision herein contained, provided, however, that the invalidity of any such covenant, condition or provision does not materially prejudice either the Lessee or the Lessor in their respective rights and obligations contained in the valid covenants, conditions, or provisions in this Lease.

XVIII. SECURITY.

Lessee shall comply with and be responsible for all applicable: (1) FAA Regulations; (2) Transportation Security Administration ("TSA") Regulations; (3) City Ordinances; and (4) Airport Rules and Regulations; involving all of their leased area and use of the Airport and terminal building, including TSAR Part 1540, Lessor's FAA approved Airport Security Program, and all other Department of Transportation and FAA directives pertaining to airport security.

- A. The Airport participates in the Record of Arrest and Prosecutions Back ("RAP Back") program for Sterile Area and Restricted Area badged individuals. RAP Back provides an additional element to the background checks required of anyone who is authorized to have unescorted access to secured areas of the Airport. Upon notification to the Lessee, the airline will notify the Airport Security Coordinator ("ASC") within twenty four (24) hours of a disqualifying conviction as outlined in the Sterile Area and Restricted Area Badge applications. Any badge suspension or revocation will follow TSA regulations regarding disqualifiers outlined in the Code of Federal Regulations ("CFR"). In cases where a person's access is suspended while a disposition is being determined, the badge holder cannot be allowed or escorted into a secured or Air Operations Areas ("AOA").

- B. Lost or stolen badges or Airport issued keys must be reported to the ASC within two (2) hours of being discovered as missing or stolen.
- C. Firing or suspension of a Lessee's employee will require a notification to the ASC within two (2) hours and a subsequent return of any issued access media to the Lessor.
- D. Employees on leave for over fourteen (14) days must return issued access media to the Lessor.
- E. In the event that keys issued by the Lessor are lost, stolen, or otherwise compromised, the Lessee will assume financial responsibility of the fees associated with rekeying or re-coring.

XIX. CONDUCT OF BUSINESS.

Lessee agrees to operate for the use and benefit of the public and that in the operation of its business upon the leased premises, Lessee agrees to furnish good, prompt, and efficient services adequate to meet all the demands for its services at the Airport, including: (i) a phone number available to customers; (ii) providing staff to provide local in-person customer service; and (iii) providing a baggage pick up policy consistent with US DOT, TSA, and contracts of carriage that does not include utilizing City of Pueblo employees to achieve such means.

XX. NON-DISCRIMINATION; AFFIRMATIVE ACTION.

- A. The Lessee will not discriminate or permit discrimination against any persons or class of persons by reason of race, color, religion, sex, sexual orientation, disability, or national origin in any manner prohibited by 49 CFR Part 21 of the Regulations of the Office of the Secretary of Transportation, or any amendments thereto. The Lessor reserves the right to take such action as the United States Government may direct to enforce this covenant.
- B. Lessee agrees to operate and provide services 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.
- C. The Lessee assures that it will undertake an Affirmative Action Plan as required by 14 CFR Part 152, Subpart E, as amended, to ensure that no person shall, on the grounds of race, creed, color, sex, sexual orientation, disability, or national origin, be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The 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 such Subpart. The Lessee assures that it will require that its covered sub-organizations provide assurances to the Lessor that they similarly will undertake an Affirmative Action Plan and that they will require

assurances from the suborganizations as required by 14 CFR Part 152, Subpart E, as amended, to the same effect.

XXI. 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 and Airport. No activity shall be undertaken by Lessee, its guests, employees, agents, contractors, or subcontractors, on all or any portion of the leased premises and Airport 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 and Airport or any part thereof in violation of any Environmental Regulations; (ii) any portion of the leased premises and Airport 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 and Airport, or any part thereof, by Lessee, its employees, agents, guests, contractors and subcontractors.

XXII. NON-EXCLUSIVE RIGHT.

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. It is clearly understood by the Lessee that no right or privilege has been granted which would prevent any person, firm, or corporation operating aircraft on the Airport from performing any services, including but not limited to maintenance and repair, that it may choose to perform.

XXIII. DEVELOPMENT OF AIRPORT.

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.

XXIV. FORCE MAJEURE; NATIONAL EMERGENCIES.

- A. Any delays in or failure of performance by any party of its obligations under this Lease shall be excused if such delays or failure are a result of acts of God, fires, floods, storms, lightning strikes, labor strikes, labor disputes, accidents, pandemics, regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of such party.
- B. During a time of war or national emergency, Lessor shall have the right to lease the landing area or any part thereof to the United States Government for military use, and if such lease is executed, the provisions of this Lease insofar as they are inconsistent with the provisions of the lease to the Government, shall be suspended.

XXV. AERIAL APPROACHES.

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 Airport 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 property and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of the Lessee. Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or any other structure on or adjacent to the Airport which, in the opinion of the Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

XXVI. 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 to 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.

XXVII. EFFECTIVE DATE.

Regardless of the date of execution, the effective date of this Lease is January 15, 2023 ("Effective Date").

XXVIII. FAA 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. 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 Airport, or in the event of any planned modification or alteration of any present or future building or structure on the Airport.
- E. 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 and Airport, 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 Airport.
- F. Lessee shall not make use of the Airport in any manner which might interfere with the landing and taking off of aircraft at Airport or otherwise constitute a hazard to aviation. In the event the aforesaid covenant is breached, the Lessor reserves the right to enter upon any area and cause the abatement of such interference at the expense of the Lessee.
- G. Lessor reserves the right to grant and to take easements or rights of way in, under, over, and across the Airport, 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 and Airport.

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 use of the Airport, but makes no guarantees as to such.

- H. 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.

XXIX. MISCELLANEOUS.

- A. This Lease expresses the entire understanding and agreement between the Lessor and Lessee with respect to the subject matter hereof and shall be binding and inure to the benefit of Lessor and Lessee and their respective successors and approved assigns. No amendment or modification hereof shall be effective unless in writing signed by Lessor or Lessee.
- B. This Lease shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any action arising out of this Lease shall be Pueblo County, Colorado. Lessor and Lessee, to the extent permitted by law, waive trial by jury in any action brought on or with respect to this Lease.
- C. Lessee is leasing the leased premises and using the Airport "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 and Airport, 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 and Airport 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 and Airport. Lessor shall be under no obligation to maintain the leased premises and Airport or any part thereof in a particular location or condition. If the Airport shall permanently close or relocate, the use restrictions herein shall not apply, and the Lessee may use the leased premises and Airport 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 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. Lessee taking possession of the leased premises and use of the Airport shall be conclusive evidence that Lessee accepts the same in their present condition and that the leased premises and Airport 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. 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.
- G. 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 Lessor, including any sub-agreement, attachment, schedule, or exhibit thereto, by the Lessor.
- H. 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 City of Pueblo, a Municipal Corporation 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.
- I. 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.
- J. This Lease 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.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties have caused this Lease to be executed as of the day and year first above written.

[S E A L]

CITY OF PUEBLO, A MUNICIPAL CORPORATION

ATTEST: _____
City Clerk

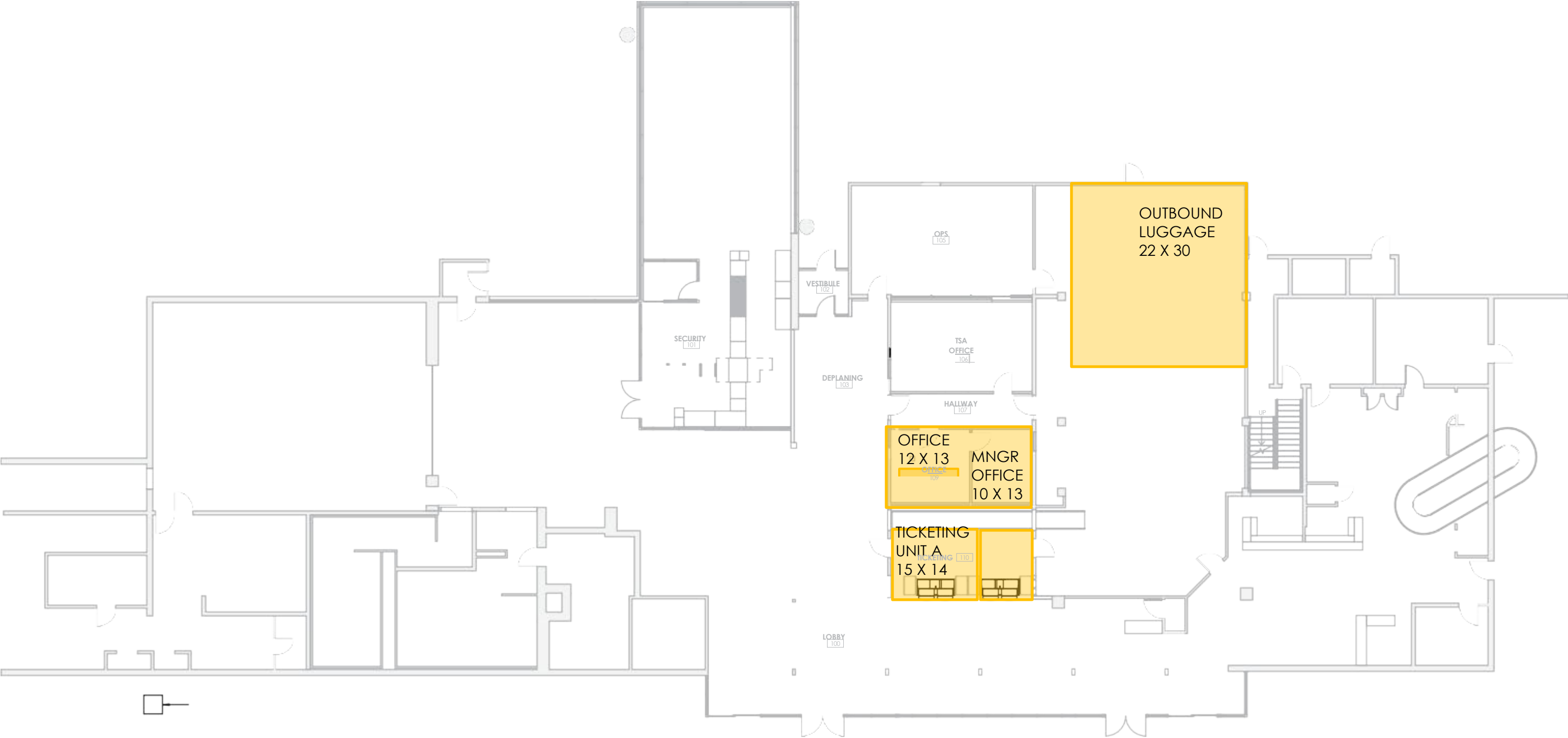
By _____
Nicholas A. Gradisar, Mayor

SOUTHERN AIRWAYS EXPRESS, LLC

ATTEST: _____

By _____
Name _____
Title _____

EXHIBIT A



FLOOR PLAN - LEVEL I



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 27, 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 AN AIRPORT COMMUNITY HANGAR LEASE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SOUTHERN AIRWAYS EXPRESS, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

A Community Hangar Lease Agreement between the City of Pueblo and Southern Airways Express, LLC (Southern Airways) for community hangar space in 31751 Walt Bassett Avenue, is attached for consideration.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

The City owns a community hangar at 31751 Walt Bassett Avenue, otherwise known as Hangar D, at the Pueblo Memorial Airport, which can be leased out on a month-to-month basis to pilots for the storage of their aircraft. There is currently space in the hangar that can be leased to Southern Airways.

FINANCIAL IMPLICATIONS:

The hangar will be leased for \$1,000.00 per month for non-exclusive use of the hangar.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the hangar space will remain vacant.

RECOMMENDATION:

It is the recommendation of the Department of Aviation that this Ordinance be approved.

ATTACHMENTS:

1. Southern Airways Hangar Lease

ORDINANCE NO.

AN ORDINANCE APPROVING AN AIRPORT COMMUNITY HANGAR LEASE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SOUTHERN AIRWAYS EXPRESS, 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, Southern Airways Express, LLC, is desirous of leasing space in the hangar at 31751 Walt Bassett, which is owned by the City of Pueblo; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:
SECTION 1.

A certain Pueblo Memorial Airport Community Hangar Lease Agreement ("Lease") by and between the City of Pueblo, a Municipal Corporation, and the Southern Airways Express, LLC, to lease space in the community hangar at 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 in the name and on behalf of the City of Pueblo, where the Mayor may execute the Lease by electronic signature and such electronic signature shall be attributable to the Mayor and the City of Pueblo.

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 _____.

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

City of Pueblo
Department of Aviation
Community Hangar Lease Agreement

This Community Hangar Lease Agreement ("Lease") is entered into this 9th day of January 2023, ("Effective Date") between the City of Pueblo, a Municipal Corporation, with an address of One City Hall Place, Pueblo, Colorado 81003 ("Lessor" or "City"), and Southern Airways Express, LLC, with an address of 2875 South Ocean Boulevard, Suite 201, Palm Beach, Florida 33480 ("Lessee").

WHEREAS, Lessor owns and operates the Pueblo Memorial Airport ("Airport"); and

WHEREAS, Lessee is desirous of leasing a hangar at the Airport upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing and mutual promises, covenants and conditions contained herein, Lessor and Lessee hereby agree as follows:

1. LEASED PREMISES

- a. Lessor hereby leases to Lessee the area generally known as a portion of 31751 Walt Bassett, the portion of the hangar shown on Exhibit "A", attached hereto and made a part hereof, located at Airport for the use of storing aircraft, which shall be continually registered with the Federal Aviation Administration ("FAA") throughout the life of this Lease. Lessee shall provide the tail number(s) for Lessee's aircraft to Lessor. Lessee agrees to report any changes in aircraft or tail number(s) fourteen (14) days prior to the change, in order for Lessor to comply with FAA reporting requirements.
- b. This Lease and Lessee's use of the leased premises 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 and its use.

2. TERM

- a. The term of this Lease shall be for one calendar month, which shall automatically renew for successive one month terms unless earlier terminated by a party.
- b. Either party may terminate this Lease by providing at least fourteen (14) days prior written notice to the other party stating that the Lease shall terminate on a certain date.

3. RENT

- a. In consideration of the rights and privileges contained herein, Lessee agrees to pay a monthly fee, payable in advance without notice by the first day of each month, of \$1,000.00 for use of the leased premises. Rent not paid by the tenth (10th) of each month shall accrue a late fee of eight percent (8%) per month. Rent shall include the combined service fee and utility costs for electricity. No other utilities shall be provided or allowed at the leased premises.
- b. Rent shall increase annually on the anniversary date of the Effective Date by two and one-half percent (2.5%) over the previous monthly rent beginning with the second

anniversary date and continuing every year thereafter. The second anniversary date shall be January 9, 2025.

4. DEPOSIT

- a. Lessee also agrees to pay a security deposit to the airport equal to one month's rent. The security deposit and first month's rent shall be paid upon execution of this agreement. Deposits shall be refunded following termination of this agreement, less any rent due or damages to the leased premises.
- 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. TAXES

- a. Lessee shall promptly pay when due all taxes, fees, licenses, and other governmental charges assessed against or applicable to the leased premises. 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. Lessee should be aware that there are multiple taxes and costs associated with owning and operating an aircraft, including the leasing of hangar space. All applicable taxes and costs shall be paid by Lessee, even if Lessee was unaware of such taxes and costs.

6. RELEASE; INSURANCE

- 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 and Lessor shall not be liable or responsible for any such loss, damage or injury, regardless of the cause thereof, including, without limitation, the negligence of Lessor, its officers, agents or employees.
- b. Lessee, at its sole cost and expense, shall, during the life of this agreement, procure, pay for and keep in full force and effect a comprehensive policy of commercial general liability insurance. 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 (including acts or omissions of the Lessee). This policy shall name the City of Pueblo as additional insured and loss payee for the policy. The policy 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

- City. Upon issuance or renewal of any such insurance policy, the Lessee shall furnish to the City a certificate of insurance evidencing coverage required under this contract.
- c. A current and valid certificate of insurance for the above described policies shall be submitted to the City at the time of signing of this agreement, and Lessee shall notify the Director of Aviation of any changes, expiration or renewal of said policies within two (2) weeks of such change.

7. RIGHTS AND PRIVILEGES OF THE LESSEE

- a. Lessee shall have the exclusive use of the designated areas of the leased premises as indicated by Exhibit A for the purpose of storing Lessee's aircraft and aeronautical property, except as specifically set forth hereinafter. Lessee shall not assign nor sublet the leased premises or any part thereof. Lessee hereby understands and accepts that the hangar is used as a community hangar and Lessee shall be sharing the hangar with other persons.
- b. Except as may be specifically authorized herein to the contrary, Lessee shall not, without the prior written approval of the Director of Aviation, make improvements, modifications, revisions, installation of signs or other alterations to the leased premises. Costs of improvements, revisions, signs and alterations shall be borne solely by Lessee and all such improvements, modifications, revisions or alterations shall upon expiration or termination of this agreement be removed without cost to the Lessor. Lessor may, on a case by case basis, allow the improvements to remain, in which case Lessor shall not be liable for the cost of the improvements. All improvements must be done by trade professionals licensed, insured and permitted to conduct business within the City.
- c. 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 City of Pueblo through the Director of Aviation.
- d. Lessee shall only use the leased premises for the storage of aircraft and minor incidental materials. 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 or federal regulations. Failure to abide by this provision shall constitute a material breach of this Lease.

8. RIGHTS AND PRIVILEGES OF THE LESSOR

- a. 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.
- b. 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.
- c. Lessor reserves the right to maintain and keep in repair the landing areas of the airport and all publicly owned facilities of the airport but shall not be obligated to the Lessee for any failure to so maintain or keep in repair.

- d. Lessee recognizes that from time to time it will be necessary for 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. The Lessee shall be obligated to 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.
- e. There is hereby reserved to the Lessor, its successors and assigns, 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 premises hereby leased, 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 of or flight in the air, using such airspace or landing at, taking off from, or operating at Pueblo Memorial Airport.
- f. Lessor reserves the right, without any obligation on its part to do so, to develop, modify, change, improve or abandon the 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.

9. OBLIGATIONS OF THE LESSEE

- 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 material shall be permitted. Lessee understands that snow removal within five (5) feet of the hangar door is the responsibility of Lessee.
- b. Lessee agrees to indemnify, defend, and save the Lessor, its agents, officer's representatives and employees, harmless from and against any and all penalties, liability or loss including costs and attorney fees resulting from claims or court action, whether civil, criminal or in equity, and arising directly or indirectly out of: (i) acts of the Lessee, his agents, employees, or servants; (ii) occurring in on or about the leased premises; (iii) arising out of or resulting from the leased premises, or any condition thereon, or from Lessee's use and occupancy of the leased premises, 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.
- c. Lessee understands that the leased premises are a shared area and that cooperation among tenants is of utmost importance. All disputes shall be brought to the Director of Aviation who shall have sole and absolute discretion in deciding said disputes. Lessee agrees to indemnify, defend, and save the Lessor, its agents, officer's representatives and employees, harmless from and against any and all penalties, liability or loss

including costs and attorney fees resulting from claims or court action, whether civil, criminal or in equity, and arising directly or indirectly out of Lessee's disputes or actions towards other tenants.

- d. Only Lessee shall park, move, and/or relocate its aircraft. Lessor shall not park, move, or relocate said aircraft for any reason unless required to do so by law or as otherwise provided for in this Lease.
- e. 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 or the airport, irrespective of how such injury or damage may be caused or occasioned.

10. OBLIGATIONS OF THE LESSOR

- a. Lessor shall maintain the floor, walls, roof and doors of said premises, except that the cost of repair for any damages to same caused by Lessee, his employees, agents, or invitees shall be borne solely by Lessee.
- b. All risk of loss or damage to Lessee's aircraft and other personal property in or upon the leased premises is assumed by Lessee, and Lessor shall not be liable or responsible for any loss or damage to such aircraft and other personal property regardless of the cause thereof, including, without limitation, the negligence of Lessor, its officers, agents or employees.
- c. Where its aircraft or other property is not moved in a timely fashion by Lessee, Lessor may move Lessee's aircraft or other property if the aircraft or property obstruct Lessor's or another tenant's use of the hangar or access ways. Should Lessor be required to move said aircraft or property for any reason, Lessor shall not be liable or in any way responsible for damage to the aircraft or property.
- d. Locks shall be provided by the Lessor and shall be the only locks placed on the hangar. Locks shall be removed and replaced solely by the Lessor. Lessee shall have no right to alter, change or replace the Lessor's locks.

11. GENERAL CONDITIONS

- a. The Airport and the terms and conditions of this Lease and Lessee's rights hereunder are hereby made subject to the provisions of the Code of Ordinances of the City of Pueblo, as same may be subsequently amended. In the event of conflict between said Code and this Lease, said Code shall control. Title III of said Code specifically relates to the Department of Aviation.
- b. The Lessee, 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 operating on the property described in the Lease for the purpose of which a United States Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- c. 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, ancestry, disability, age, 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, 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.

- d. The Lessee, by accepting this Lease expressly agrees for itself, its successors and assigns that it will not make use of the leased premises in any manner which might interfere with the landing and taking-off of aircraft from Pueblo Memorial Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the Lessor reserves the right to enter upon the premises hereby leased at any time and cause the abatement of such interference at the expense of the Lessee.
- e. This Lease and all the provisions hereof are subject to all rights the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation, re-entry upon and taking over of the Airport including the leased premises.
- f. The Lessee shall observe faithfully all rules and regulations affecting use of the Airport, whether established by the Director of Aviation, the City or other political subdivision having jurisdiction, the State of Colorado or the United States, or agencies thereof, including but not limited to rules affecting the operation of motor vehicles upon, to and from the Airport.
- g. 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.
- h. The leased premises is leased "As Is, Where Is, With All Its Faults" and Lessor has not at any time made any warranty or representation of any kind or character, express or implied, with respect to the leased premises, 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 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.
- i. The Lessee represents that it has inspected the Airport, leased premises, 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. Lessee's taking of possession of the leased premises shall be conclusive evidence that Lessee accepts the leased premises in its present condition and that the leased premises is in good and satisfactory condition at the time such possession was taken.

- j. The acts and omissions of Lessee's employees, agents, contractors, and guests shall be imputed to Lessee for purposes of this Lease.

12. DEFAULT, HOLDOVER, AND NON-PERFORMANCE CONDITIONS

- a. If after the expiration of the term of this Lease, Lessee shall remain in possession of the leased premises and continue to pay rent without any express written agreement as to such holding over, then Lessee agrees that all terms and covenants of the Lease shall remain in effect, except that Lessee shall be a tenant from month-to-month at the then current monthly rent and subject to the same annual adjustments as previously existed. During the term of any month-to-month tenancy, Lessor or Lessee may terminate this Lease upon fourteen (14) days prior written notice to the other party.
- b. 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 said premises without the same working any forfeiture of any accrued obligations of the Lessee hereunder.
- c. If the rent or any part thereof shall be in default, or in case of any breach by the Lessee of any of the covenants or agreements herein, Lessor may declare this Lease terminated, and after the expiration of fourteen (14) days from the date of the service of a written notice to that effect, be entitled to the possession of said premises. 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.
- d. That in case said 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.
- e. In the event the Lease be terminated, as herein provided, Lessor should have and is hereby given a lien upon Lessee's aircraft and property, including equipment, fixtures, furniture and inventory, in or upon the leased premises for all rent, expenses, attorney fees and costs then due or to become payable by Lessee hereunder, and such lien may be enforced by the taking and sale of such property in the same manner and as provided for the disposition of collateral under the Colorado Uniform Commercial Code.

- 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 hereof.
- g. Without affecting any other rights granted to Lessor under this Lease, Lessee shall remove its airplane and any personal property from the leased premises within seven (7) days after termination of this Lease. Should Lessee fail to remove its property within that seven (7) day period, Lessor shall have the right to enter and remove the property, where Lessee shall be liable for all costs of removal. Unclaimed property shall be considered abandoned and may be disposed of in any manner Lessor deems appropriate. Should Lessor choose to sell the abandoned property, any money so derived shall first go to pay costs due to the Lessor, while any left-over amounts shall be forwarded to the Lessee.

13. SPECIAL CONDITIONS

- a. Lessee agree that no flammable liquids or hazardous materials shall be used or stored on the premises, excepting the fuel in the aircraft fuel tanks or in the tank of a stored automobile, properly parked.
- b. It is expressly understood that no person other than the Lessee or his regular employee may perform services on any aircraft on the leased premises in such a manner as not to exceed the definition of preventative maintenance in 14 CFR Part 43 - Appendix A and in accordance with local ordinance.
- c. Lessee agrees not to use the leased premises for non-aeronautical commercial or residential uses and that all uses shall be substantially aeronautical.
- d. Lessee agrees to provide drip pans of a non-flammable material under the aircraft to prevent damage to the floor, should said aircraft leak any fluids.
- e. 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 locked at all times except for ingress and egress. Only automobiles belonging to owners of aircraft hangered therein will be permitted on the air operations area. Any automobile brought by Lessee shall be the sole responsibility of the Lessee.
- f. Violation of airport security rules as now, or in the future may, exist shall be grounds for immediate termination of this Lease.
- g. No person or automobile shall go beyond the immediate vicinity of the leased premises without the express written consent of the Director of Aviation.
- h. Automobiles must be parked in designated parking spaces or within the hangar, except that the hangar cannot be used solely for storage of automobiles.
- i. Mounting, hanging, suspending, or otherwise installing any item from the ceiling, support beams, or roofing structure is expressly forbidden.
- j. 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.

14. 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. No activity shall be undertaken by Lessee, its guests, employees, agents, contractors or subcontractors, on all or any portion of the Leased Premises 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 or any part thereof in violation of any Environmental Regulations; (ii) any portion of the leased premises 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. 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, or any part thereof, by Lessee, its employees, agents, guests, contractors and subcontractors.

15. MISCELLANEOUS PROVISIONS

- a. No assent, express or implied, to any breach of any one or more of the covenants and agreements hereof, shall be deemed or taken to be a waiver of any succeeding or other breach.
- b. All covenants and agreements in this Lease shall be binding upon and inure to the benefit of the heirs, successors, assigns and legal representatives of Lessor and Lessee.
- c. Any notice, demand or request provided in this Lease shall be in writing and sent by certified mail, return receipt requested to the other party at the addresses listed above or at such other address as each party may provide the other by written notice. Such notice shall be deemed given on the day it is properly mailed.
- d. Nothing in this Lease 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.
- e. 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.
- f. This Lease shall not be assigned by Lessee for any reason.
- g. Nothing in this Lease is intended to nor 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 Lease.

Executed at Pueblo, Colorado as of the day and year first above written.

LESSEE:
Southern Airways Express, LLC

LESSOR:
City of Pueblo, A Municipal Corporation

By: _____
Name: _____
Title: _____

By: _____
Nicholas A. Gradisar, Mayor

ATTEST:

By: _____
City Clerk

Exhibit A





Background Paper for Proposed Resolution

COUNCIL MEETING DATE: December 27, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Jerry Pacheco Executive Director Pueblo Urban Renewal Authority

SUBJECT: A RESOLUTION APPROVING THE PUEBLO URBAN RENEWAL AUTHORITY VENDOR FEE BUDGET FOR THE PUEBLO CONVENTION CENTER AND THE MEMORIAL HALL CAPITAL PROJECTS AND MAINTENANCE FUND, FOR THE CALENDAR YEAR 2023, COMMENCING JANUARY 1, 2023 AND ENDING THE LAST DAY OF DECEMBER 2023

SUMMARY:

This Resolution approves the 2023 Vendor Fee Budget for the Pueblo Convention Center and the Memorial Hall Capital Projects and Maintenance fund.

PREVIOUS COUNCIL ACTION:

Council approval of the Vendor Fee budget for the Pueblo Convention Center and Memorial Hall Capital Projects and Maintenance fund is completed annually.

BACKGROUND:

Section 14-4-17 of the City of Pueblo's Code of Ordinances authorizes the use of the "Vendor Fee" or 3.3% of City's sales tax revenue, for the purposes of operations and maintenance of the Pueblo Convention Center and Memorial Hall, subject to City Council approval.

FINANCIAL IMPLICATIONS:

Approval of the resolution will budget \$3,167,247.00 in 2023 Vendor Fee revenue towards the following purposes:

- \$888,062.50 for the payment of debt service on the Memorial Hall and Pueblo Convention Center Bonds: \$610,000 principal and \$278,062.50 interest
- \$2,179,192 for the Operation and Maintenance of the Pueblo Convention Center (\$1,096,528), the Asset Management Fee (\$265,000), and Capital repair and maintenance expenditures (\$817,664)

- \$20,000 for the Maintenance of the Memorial Hall
- \$79,992.50 transfer to the Redemption Account

BOARD/COMMISSION RECOMMENDATION:

The 2023 Budget was reviewed by the PURA Board and was approved at the Regular Meeting of the PURA Board of Commissioners on November 8, 2022.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

None.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. PURA - Vendor Fee Budget 2023

RESOLUTION NO. 15108

A RESOLUTION APPROVING THE PUEBLO URBAN RENEWAL AUTHORITY VENDOR FEE BUDGET FOR THE PUEBLO CONVENTION CENTER AND THE MEMORIAL HALL CAPITAL PROJECTS AND MAINTENANCE FUND, FOR THE CALENDAR YEAR 2023, COMMENCING JANUARY 1, 2023 AND ENDING THE LAST DAY OF DECEMBER 2023

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The Pueblo Urban Renewal Authority (the "Authority") fiscal year 2023 Vendor Fee Budget, a copy of which is attached hereto and incorporated herein by reference, shall be and is hereby approved.

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.

INTRODUCED: December 27, 2022

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
DEPUTY CITY CLERK

Vendor Fee Fund 98

		2023 Draft Budget	2022 Draft Budget Amendment	2022 Budget	2021 Actual	2020 Actual	2019 Actual	2018 Actual
Operational Revenue								
4100-98	Vendor Fees	\$ 3,167,247.00	\$ 2,918,439.00	\$ 2,918,439.00	\$ 2,955,560.00	\$ 2,315,058.00	\$ 2,237,636.00	\$ 2,163,429.00
4020-00	Interest	\$ -	\$ -	\$ -	\$ 499.00	\$ 4,605.00	\$ 27,814.00	\$ 22,234.00
Total		\$ 3,167,247.00	\$ 2,918,439.00	\$ 2,918,439.00	\$ 2,956,059.00	\$ 2,319,663.00	\$ 2,265,450.00	\$ 2,185,663.00
Operational Expenses								
9014-00	Maintenance Memorial Hall	\$ 20,000.00	\$ 16,000.00	\$ 16,000.00	\$ -	\$ -	\$ 14,470.00	\$ 5,399.00
9099-00	Operations&Maintenance Subsidy	\$ 1,096,528.00	\$ 931,213.00	\$ 931,213.00	\$ 936,706.00	\$ 1,014,844.00	\$ 803,194.50	\$ 770,257.00
9099-00	Asset Management Fee	\$ 265,000.00	\$ 250,000.00	\$ 250,000.00	\$ 184,083.00	\$ 184,000.00	\$ 184,784.00	\$ 182,302.00
9099-00	Capital Project Management	\$ 85,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
9099-00	Interfund Loan payment to Convention	\$ -	\$ -	\$ -	\$ 10,397.00	\$ 20,795.00	\$ 20,795.00	\$ 20,795.00
5066-00	Interest Expense	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
5825-00	Miscellaneous	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 54,360.00
Total		\$ 1,466,528.00	\$ 1,197,213.00	\$ 1,197,213.00	\$ 1,131,186.00	\$ 1,219,639.00	\$ 1,023,243.50	\$ 1,033,113.00
Other Funding Sources								
3000-00	Prior Year Carryover	\$ -	\$ -	\$ -	\$ -	\$ 791,672.00	\$ -	\$ -
4025-00	Refinancing Proceeds	\$ -	\$ -	\$ -	\$ -	\$ 9,875,758.00	\$ -	\$ -
3000-00	Redemption Account Excess carryover	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 400,000.00
Total		\$ -	\$ -	\$ -	\$ -	\$ 10,667,430.00	\$ -	\$ 400,000.00
Other Expenses								
9030-00	Memorial Hall Debt Service Principle 75.59%	\$ 461,099.00	\$ 442,201.50	\$ 585,000.00	\$ 555,964.45	\$ 12,443,676.00	\$ 604,012.50	\$ 603,513.00
9030-00	Memorial Hall Debt Service Interest 75.59%	\$ 210,187.44	\$ 227,875.50	\$ 301,462.50	\$ 151,368.55	\$ -	\$ -	\$ -
9030-00	Transfer to Convention Center DS Principle 24.41%	\$ 148,901.00	\$ 142,798.50	\$ -	\$ -	\$ -	\$ 459,200.00	\$ 462,950.00
9030-00	Transfer to Convention Center for DS Interest 24.41%	\$ 67,875.06	\$ 73,587.00	\$ -	\$ -	\$ -	\$ -	\$ -
5817-00	Trustee Fee and Refi COI	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
9099-00	TBD Capital Expenditures/	\$ 732,664.00	\$ 780,214.00	\$ 780,214.00	\$ -	\$ -	\$ -	\$ 400,000.00
3000-00	Transfer to Redemption Account	\$ -	\$ 54,549.50	\$ 54,549.50	\$ -	\$ -	\$ 1,087.00	\$ 86,087.00
Total		\$ 1,620,726.50	\$ 1,721,226.00	\$ 1,721,226.00	\$ -	\$ 12,443,676.00	\$ 1,064,299.50	\$ 1,552,550.00
Excess (Loss)		\$ 79,992.50	\$ -	\$ -	\$ -	\$ (676,222.00)	\$ 177,907.00	\$ -



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 12, 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 AN AMENDMENT TO THE PROFESSIONAL ENGINEERING SERVICES AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND DIBBLE AND ASSOCIATES CONSULTING ENGINEERS, INC., FOR THE REHABILITATION OF RUNWAY 8R/26L (PHASE 1 - DESIGN) AT THE PUEBLO MEMORIAL AIRPORT, BUDGETING AND APPROPRIATING \$49,807 TO PROJECT NO. AP2205 – REHAB RUNWAY 8R/26L DESIGN AND CONSTRUCTION, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance will approve an amendment to the Agreement for Professional Engineering Services ("Professional Services Agreement") between the City of Pueblo and Dibble and Associates Consulting Engineers, Inc., and budget and appropriate \$49,807.00 to Project No. AP2205 for the Rehabilitation of Runway 8R/26L (Phase 1 - Design).

PREVIOUS COUNCIL ACTION:

Ordinance No. 10242 was approved by City Council on August 9, 2022, and accepted an FAA AIP grant, established Project No. AP2205, and awarded the Agreement for Professional Engineering Services ("Professional Services Agreement") to Dibble and Associates Consulting Engineers, Inc., for the Rehabilitation of Runway 8R/26L (Phase 1 - Design).

BACKGROUND:

During this engineering design phase, the FAA has requested additional engineering services to be performed for additional work to be done during construction. FAA funding will be provided for an Airfield Lighting Control and Monitoring System (ALCMS), additional Geotech services, and additional engineering surveying and site

visits. The additional engineering costs will be added to the design phase in the amount of \$49,807.00. The additional engineering services will add these line items to the upcoming Phase - 2 Rehab of Runway 8R-26L construction project

FINANCIAL IMPLICATIONS:

Funds in the amount of \$49,807.00 will be transferred from the Passenger Facility Charges Fund to Project No. AP2205 – Rehab Runway 8R/26L Design and Construction. The FAA will reimburse 95% of these funds when the grant for the construction phase is awarded.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not Applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the amendment to the Agreement for Professional Engineering Services (“Professional Services Agreement”) will not be approved and the additional necessary improvements will not be completed.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10353

AN ORDINANCE APPROVING AN AMENDMENT TO THE PROFESSIONAL ENGINEERING SERVICES AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND DIBBLE AND ASSOCIATES CONSULTING ENGINEERS, INC., FOR THE REHABILITATION OF RUNWAY 8R/26L (PHASE 1 - DESIGN) AT THE PUEBLO MEMORIAL AIRPORT, BUDGETING AND APPROPRIATING \$49,807 TO PROJECT NO. AP2205 – REHAB RUNWAY 8R-26L DESIGN AND CONSTRUCTION, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, the Federal Aviation Administration (“FAA”) has requested additional engineering services to be performed for work to be completed during the construction phase of Runway 8R-26L Rehab; and,

WHEREAS, the additional funds for this Amendment to the Agreement for Professional Engineering Services need to be budgeted and appropriated into Rehab Runway 8R-26L Design & Construction Project No. AP2205. NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Amendment to the Agreement for Professional Engineering Services (“Amendment”), a copy of which is attached hereto and made part hereof by reference, by and between the City of Pueblo, a Municipal Corporation, and Dibble and Associates Consulting Engineers, Inc., an Arizona Corporation, to provide additional engineering design services for the Rehabilitation of Runway 8R-26L (Phase 1 - Design) at Pueblo Memorial Airport, after having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

Funds in the amount of \$49,807.00 shall be transferred from the Passenger Facility Charge Fund and budgeted and appropriated to Project No. AP2205 - Rehab Runway 8R-26L Design and Construction.

SECTION 3.

The Mayor is hereby authorized to execute the Amendment in the name and on behalf of the City of Pueblo, where the Mayor may execute the Amendment by electronic signature and such electronic signature shall be attributable to the Mayor and the City of Pueblo.

SECTION 4.

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 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 December 12, 2022.

Final adoption of Ordinance by City Council on December 27, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 29, 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



Deputy City Clerk

**AMENDMENT NO. 1 TO THE
AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES
BY AND BETWEEN CITY OF PUEBLO AND
DIBBLE AND ASSOCIATES CONSULTING ENGINEERS, INC.**

This Amendment No. 1 to the Agreement for Professional Engineering Services ("Amendment") is executed to be effective as of the ___26th___ day of December, 2022, by and between the City of Pueblo, Colorado, a Colorado Municipal Corporation ("Owner") and Dibble and Associates Consulting Engineers, Inc., an Arizona Corporation, doing business as Dibble Engineering, a professional engineering firm (hereinafter "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 8th day of August, 2022 (the "Agreement") for Project AP2205, Project Name: Rehabilitate Runway 8R-26L and Taxiway A2 Removal (Design Only); 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:

- Airfield Lighting Control and Monitoring System (ALCMS)
- New Geotechnical Engineer and Additional Geotechnical Investigations
- Additional Evaluations, Site Visits, and Survey
- The work items with respect to such additional services are generally identified and set forth in Attachment A.

2. Attachment A to this Amendment No. 1 shall be added to the original scope of work, and Engineer shall complete the work items as generally described in said Attachment A in accordance with the terms of the Agreement.

3. With respect to services provided under the Amendment No. 1, the fee schedule included in Attachment A to this Amendment No. 1 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. 1 shall not exceed the maximum amount of \$49,807.00 as set forth in the Attachment A 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. 1, the Agreement shall remain in full force and effect. Except as modified by this Amendment No. 1, any obligations to be performed under the Agreement 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. 1.

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. 1 have set forth their hand, to be effective as of the effective date.

CITY OF PUEBLO, A MUNICIPAL CORPORATION

DIBBLE AND ASSOCIATES CONSULTING
ENGINEERS, INC.

By _____
Nicholas A. Gradisar, Mayor

By _____
Ryan Toner, Vice President

Attest _____
Marisa Stoller, City Clerk

[S E A L]

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

Alexandria Romero, Director of Finance

APPROVED AS TO FORM:

Dan Kogovsek, City Attorney

Attachment: Attachment A – Engineering Services Proposal



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 12, 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 THE TRANSFER OF FUNDS FROM PUBLIC WORKS DEPARTMENT OPERATING FUNDS TO PROJECT NO. CIAN20 - CITY BUILDING REPAIRS IN THE AMOUNT OF \$300,000

SUMMARY:

This Ordinance approves the transfer of funds from Public Works operational funds in the amount of \$300,000.00 to project account no. CIAN20 - City Building Repairs.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Project No. CIAN20 - City Building Repairs is the project account which covers both planned and emergency building repairs. The City has incurred numerous facility repair projects in the fourth quarter which have exceeded the funding available in the City Building Repairs project account.

FINANCIAL IMPLICATIONS:

This Ordinance approves the transfer of \$300,000.00 from Public Works operating funds to the City Building Repairs capital project account (CIAN20).

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the Public Works Department will not have adequate funding budgeted and appropriated to cover the cost of unplanned and emergency repair requirements that have occurred or that may arise before the end of the fiscal year.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10354

AN ORDINANCE APPROVING THE TRANSFER OF FUNDS FROM PUBLIC WORKS DEPARTMENT OPERATING FUNDS TO PROJECT NO. CIAN20 - CITY BUILDING REPAIRS IN THE AMOUNT OF \$300,000

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Funds in the amount of \$300,000.00 shall be transferred from account 10140103 51040 (Public Works Engineering - Wages/General Service) to account CIAN20 (City Building Repairs).

SECTION 2.

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 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 December 12, 2022.

Final adoption of Ordinance by City Council on December 27, 2022.



President of City Council

Action by the Mayor:

- ☒ Approved on December 29, 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

K.R. P.
Deputy City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 12, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Benjamin Valdez

SUBJECT: AN ORDINANCE APPROVING AN AGREEMENT WITH COLORADO DEPARTMENT OF TRANSPORTATION AND CONTINUUM OF COLORADO FOR THE TRANSFER OF THREE PARATRANSIT BUSES TO BE USED IN PUBLIC TRANSIT OPERATIONS

SUMMARY:

The attached Ordinance approves the agreement between Colorado Department of Transportation and Continuum of Colorado for the transfer of three used buses, and to operate the buses through their remaining useful life per grant requirements.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Pueblo Transit is accepting the transfer of three used buses from the Colorado Department of Transportation and Continuum of Colorado to replace units 24 and 26. These buses have exceeded their useful life and cannot be repaired at a reasonable cost.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Pueblo Transit Board recommends approval.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance

ALTERNATIVES:

Should this Ordinance not pass, Pueblo Transit will risk not providing transportation services to handicap or disabled individuals.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. CDOT - DP - Pueblo MOU

ORDINANCE NO. 10355

AN ORDINANCE APPROVING AN AGREEMENT WITH COLORADO DEPARTMENT OF TRANSPORTATION AND CONTINUUM OF COLORADO FOR THE TRANSFER OF THREE PARATRANSIT BUSES TO BE USED IN PUBLIC TRANSIT OPERATIONS

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Agreement between the City of Pueblo, Colorado Department of Transportation and Continuum of Colorado, 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 authorized to execute the Agreement for and on behalf 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 December 12, 2022.

Final adoption of Ordinance by City Council on December 27, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 29, 2022 .

☐ Disapproved on _____ based on the following objections:

Nilda 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

K.R. P.
Deputy City Clerk

**Memorandum of Understanding
Between the Colorado Department of Transportation, Developmental Pathways, Inc.,
and the City of Pueblo**

This Memorandum of Understanding (“MOU”), between the Colorado Department of Transportation (“CDOT”), DEVELOPMENTAL PATHWAYS, INCORPORATED (“Developmental Pathways”), and the City of Pueblo sets forth a shared understanding regarding disposition of three (3) transit vehicles and spare parts as set forth below. CDOT, Developmental Pathways, and the City of Pueblo may also hereinafter be referred to individually as “Party” or jointly as “Parties”.

Recitals:

1. By the authority provided in 49 U.S.C. Section 53 and related guidance provided in Federal Transit Administration Circular 5010.1E, Part III-4c, transit agencies may transfer property to other transit agencies.
2. Developmental Pathways wishes to dispose of three (3) transit vehicles and spare parts, with no express or implied warranties, and the City of Pueblo desires to receive three vehicles from Developmental Pathways.

NOW THEREFORE, in consideration of the mutual benefits to be derived, upon execution of this MOU, the Parties agree as follows:

1. The City of Pueblo will compensate Developmental Pathways \$0 per unit to transfer the vehicle(s) described below:

Unit #	VIN	Model Year	Manufacturer	Lienholder - Title #
240	1FDFE4FS2FDA19934	2015	SPC - Startrans	CDOT - 47G317971
241	1FDFE4FS6FDA19936	2015	SPC - Startrans	CDOT - 47G317966
255	1FDFE4FS3GDC50522	2016	SPC - Startrans	CDOT - 47G362821

2. Within thirty (30) days of execution of this MOU, the following steps set forth in section 3, 4 and 5 below will be completed to transfer ownership of the above-listed vehicle(s) to the City of Pueblo:
3. Developmental Pathways will:
 - a. Submit Disposition Concurrence Request and Disposition Authorizations to CDOT via COTRAMS, which CDOT will promptly review and approve;
 - b. Assemble and sign the vehicle title(s) in its possession or control and provide the title(s) to the City of Pueblo at the time of vehicle transfer;
 - c. Transfer the vehicle(s) to the City of Pueblo, as mutually agreed upon between Developmental Pathways and the City of Pueblo; provide the City of Pueblo with copies

of prior maintenance and repair records for the vehicle(s), in paper or electronic form. Once completed, the City of Pueblo will certify in writing to both Developmental Pathways and CDOT that the City of Pueblo has taken possession of the vehicle(s).

4. CDOT will:

- a. Gather the Division of Motor Vehicles (“DMV”) vehicle title(s) in its possession, process the Lien Records Release, sign all such title(s) over to Developmental Pathways, and provide the title(s) to Developmental Pathways;
- b. As vehicle title(s) is received from the DMV by CDOT, CDOT will create Capital Inventory records in COTRAMS and enter the title information, as well as other basic vehicle information, and notify the City of Pueblo that the records have been created; and
- c. Keep the vehicle titles it receives from the DMV until such time as the vehicle(s) is disposed of by the City of Pueblo.

5. City of Pueblo will:

- a. Update the title records with the DMV;
- b. Take the title(s) to the DMV, register the vehicle(s) under City of Pueblo ownership, and pay any and all fees associated with the transfer of title(s) and registration;
- c. For a vehicle(s) where CDOT is the current lienholder, the City of Pueblo will also have CDOT listed as the first lienholder on the updated title;
- d. Timely enter other relevant information in the COTRAMS Capital Inventory records, including current mileage information;
- e. Within forty-five (45) days of taking possession of the above-listed vehicle(s) from Developmental Pathways, the City of Pueblo shall ensure that the vehicle(s) is identified as City of Pueblo operating vehicle(s), using standard the City of Pueblo vehicle decals, logos, numbering, or other standard agency vehicle identification signage;
- f. The City of Pueblo agrees to continue to comply with federal and/or state requirements and ensure that all of the above-listed vehicles that have a federal interest and/or state interest remaining are used for the purpose of the original grants, and specifically for the transportation of the public.

6. Term This MOU shall terminate upon the Parties’ completion of all items identified in section 3, 4 and 5 above.

7. Contacts

For CDOT:

Amber Blake
Colorado Department of Transportation
Director, Division of Transit and Rail

2829 West Howard Place
Denver, CO 80204

For Developmental Pathways:

Matt VanAuken
Executive Director, CEO
DEVELOPMENTAL PATHWAYS,
INCORPORATED
14280 E. Jewell Ave., Suite A
Aurora, CO 80012

303-757-9008
amber.blake@state.co.us

303-360-6600
m.vanauken@dpcoloro.org

For the City of Pueblo:

Benjamin R. Valdez
Director Pueblo Transit
350 Alan Hamel Ave
Pueblo, CO 81003
bvaldez@pueblo.us
Ph:719-553-2706 | Fax: 719-553-2724

8. No Third-Party Beneficiary

It is expressly understood and agreed that the enforcement of the terms and conditions of this MOU, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties hereto, and nothing contained in this MOU shall give or allow any such claim of right of action by any other or third person or entity on such MOU. It is the express intent of the Parties hereto that any person or entity, other than the Parties to this MOU, receiving services or benefits under this MOU shall be deemed incidental beneficiaries only.

9. Modifications

Except as otherwise provided in this MOU, any modification to this MOU shall only be effective if agreed to in a formal amendment to this MOU, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Contract, other than contract amendments, shall conform to the policies issued by the Colorado State Controller.

10. Applicable Law

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

11. Signature Authority

Each Party represents and warrants that it has taken all actions that are necessary or that are required by its respective procedures and applicable law to legally authorize the undersigned signatory for that Party to execute this MOU on behalf of the Party and to bind the Party to its terms.

Each person signing this MOU represents and warrants that the signer is duly authorized to execute this MOU and to bind the Party authorizing such signature.

_____ _____	By: Nicholas Gradisar, Mayor Date: _____
	STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director
	By: Stephen Harelson, P.E., Chief Engineer (For) Shoshana M. Lew, Executive Director Date: _____



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 12, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Brian Gallagher, Director of Housing and Citizens Services

SUBJECT: AN ORDINANCE AUTHORIZING AMENDMENT NO. 18 TO THE AGREEMENT FOR COMMUNITY SERVICES PLANNING, ADMINISTRATION, AND ACCOUNTABILITY SERVICES BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF PUEBLO

SUMMARY:

Attached is Amendment No. 18 to the Intergovernmental Agreement between the City and the County of Pueblo, which provides for the administration of the Community Services Advisory Commission (CSAC). This Amendment extends the Agreement until December 31, 2023.

PREVIOUS COUNCIL ACTION:

The City Council has approved the extension of the Agreement every year since 2003.

BACKGROUND:

Prior to 2003, the City and County of Pueblo had separate processes by which they allowed local non-profits to apply for general revenue funds. In 2003, the City and County entered into an agreement that streamlined that process and created the Community Services Advisory Commission. Under the Agreement, Pueblo County administers the funding process. The Agreement is for one year, and it has been renewed each year since 2003.

FINANCIAL IMPLICATIONS:

During the City's budget process, the City Council determines the amount of funding that it will appropriate for the Community Services Advisory Committee. There is no set amount stated in the Agreement. In 2013, the City and County amended the Agreement to allow for a 5% administrative fee to be charged, as opposed to a yearly negotiated

amount. In 2023, the City will contribute \$490,000 and the County contribution will be \$465,500. The CSAC Agreement allows the County a 5% (\$47,775) administrative fee to administer CSAC.

BOARD/COMMISSION RECOMMENDATION:

There are no boards or commissions associated with this action.

STAKEHOLDER PROCESS:

There are no required or recommended stakeholder processes attached to this action.

ALTERNATIVES:

The City or the County could choose to return to the processes in place prior to 2003, and each entity would undertake its own funding process.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. CSAC Amendment 18

ORDINANCE NO. 10356

AN ORDINANCE AUTHORIZING AMENDMENT NO. 18 TO THE AGREEMENT FOR COMMUNITY SERVICES PLANNING, ADMINISTRATION, AND ACCOUNTABILITY SERVICES BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF PUEBLO

WHEREAS, City and County have heretofore entered into the Agreement for Community Services Planning, Administration and Accountability Services dated July 14, 2003, (hereinafter "the Agreement") wherein the parties set forth their agreement concerning cooperation in the funding, contracting, and compliance monitoring of non-profit community service organizations; and

WHEREAS, the parties desire to continue the cooperative arrangement for another calendar year and it is therefore necessary and desirable that the Agreement be amended to extend its term for an additional calendar year; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Amendment No. 18 to Agreement for Community Services Planning, Administration, and Accountability dated December 12, 2022 between the City of Pueblo, a Municipal Corporation, and the Board of County Commissioners of the County of Pueblo ("Amendment "), for community services planning, administration, and accountability services, a copy of which is attached and incorporated herein, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute said Amendment for and on behalf of the City and the City Clerk is authorized 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 this Ordinance to implement the policies and procedures described herein.

SECTION 4.

If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

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 December 12, 2022.

Final adoption of Ordinance by City Council on December 27, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 29, 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



Deputy City Clerk

AMENDMENT NO. 18 TO
AGREEMENT FOR COMMUNITY SERVICES PLANNING,
ADMINISTRATION, AND ACCOUNTABILITY SERVICES

THIS AMENDMENT NO. 18 to Agreement for Community Services Planning, Administration, and Accountability Services is made and entered into this _____ day of December 2022, by and between the City of Pueblo, a Municipal Corporation (hereinafter referred to as "City"), and the Board of County Commissioners of the County of Pueblo (hereinafter referred to as "County").

WHEREAS, City and County have heretofore entered into the Agreement for Community Services Planning, Administration, and Accountability Services dated July 14, 2003 (hereinafter the "Agreement"), and prior Amendment No's. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 thereto, wherein the parties set forth their agreement concerning cooperation in the funding, contracting, and compliance monitoring of non-profit community service organizations; and

WHEREAS, the parties desire to continue the cooperative arrangement for another calendar year and it is therefore necessary and desirable that the Agreement be amended to extend its term for an additional calendar year.

NOW, THEREFORE, in consideration of the foregoing and the mutual terms and conditions set forth herein, the parties agree as follows:

1. The Agreement is amended by revising section 8 (Term of Agreement) thereof to extend the expiration of the term of the Agreement to December 31, 2023, unless sooner terminated as provided in the Agreement.
2. Except as expressly modified by this Amendment No. 18, the Agreement, including all prior Amendments, shall remain in full force and effect. Any obligations remaining to be performed under the original Agreement and prior Amendments by either party, including but not limited to those relating to the services to be performed by County, or the compensation payable therefore, are not waived or excused in any manner, but shall be fully performed in accordance with the terms and conditions of the Agreement as it existed prior to this Amendment No. 18.

IN WITNESS WHEREOF, City and County have executed this Amendment No. 18 to Agreement for Community Services Planning, Administration, and Accountability Services as of the date first above written.

CITY OF PUEBLO,
A MUNICIPAL CORPORATION

ATTEST:

City Clerk

By _____
Nicholas A. Gradisar, Mayor

APPROVED AS TO FORM

BALANCE OF APPROPRIATION EXISTS
FOR THIS CONTRACT AND FUNDS ARE
AVAILABLE

City Attorney

By _____
Director of Finance

ATTEST:

COUNTY OF PUEBLO

County Clerk

By _____
Chair, Board of County Commissioners

[S E A L]



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 12, 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 ESTABLISHING THE BEARCAT PROJECT NO. CI2220, TRANSFERRING \$300,000 FROM THE POLICE DEPARTMENT ACCOUNT 101-20502-51030 AND BUDGETING AND APPROPRIATING \$300,000 FOR SAID PROJECT

SUMMARY:

This Ordinance establishes Project No. CI2220, transfers \$300,000 from the Police Department police service wages account 101-20502-51030 and budgets and appropriates \$300,000 for the BearCat Project.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This Ordinance establishes the BearCat Project, CI2220, transfers funds in the amount of \$300,000 from the Police Department police service wages account 101-20502-51030 and budget and appropriates said funds. This project will allow for the purchase of a ballistic protective vehicle for SWAT Operations to replace the use of the MRAP. This replacement is required due to changes in the 10-33 program which do not allow the use of the MRAP for the majority of high-risk arrest warrant / search warrant service or barricaded gunmen.

FINANCIAL IMPLICATIONS:

By transferring the funds from the Police Department's police service wages account 101-20502-51030 into Project CI2220, the project expenses can be paid, if necessary, into 2023.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Currently, there are no alternatives for completing the Project without the funding from the Police Department.

RECOMMENDATION:

Approval of this Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10357

AN ORDINANCE ESTABLISHING THE BEARCAT PROJECT NO. CI2220, TRANSFERRING \$300,000 FROM THE POLICE DEPARTMENT ACCOUNT 101-20502-51030 AND BUDGETING AND APPROPRIATING \$300,000 FOR SAID PROJECT

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The BearCat Project, CI2220, is hereby established.

SECTION 2.

Funds in the amount of \$300,000 are hereby transferred from the Police Department police service wages account 101-20502-51030 into Project No. CI2220, and budgeted and appropriated for said Project.

SECTION 3.

The officers and the staff of the City are authorized and directed 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 December 12, 2022.

Final adoption of Ordinance by City Council on December 27, 2022.



President of City Council

Action by the Mayor:

- ☒ Approved on December 29, 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

K.R. P
Deputy City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 12, 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 INTERNSHIP BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, WESTERN ILLINOIS UNIVERSITY SCHOOL OF LAW ENFORCEMENT AND JUSTICE ADMINISTRATION, AND KATHERYN BLACK AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

Attached is an Ordinance approving an internship agreement between the City of Pueblo and Western Illinois University School of Law Enforcement and Justice Administration.

This agreement would allow one of their students to complete an unpaid internship with the Pueblo Police department for the Spring 2023 semester.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

A student from Western Illinois University approached the City of Pueblo to express interest in completing her internship with the Police Department. This is a degree requirement for the student, and she will receive 12 credits for completing approximately 360 contact hours of professional fieldwork. The internship will commence from January 16, 2023 through May 5, 2023. During this 9-week period, the student will work approximately 40 hours per week. This will be an unpaid internship, and the student will be covered by the university's insurance. See enclosed Statement of Insurance and Waiver and Release forms. This internship will grant the opportunity to gain valuable knowledge of the total scope of agency operations including, planning, organizing, and leading program activities as well as opportunities to observe and participate in field experiences.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

Denial of this ordinance will take away the opportunity for this student to experience valuable exposure to the Law Enforcement field.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Internship Contract - Western Illinois Univ

ORDINANCE NO. 10358

AN ORDINANCE APPROVING AN INTERNSHIP BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, WESTERN ILLINOIS UNIVERSITY SCHOOL OF LAW ENFORCEMENT AND JUSTICE ADMINISTRATION, AND KATHERYN BLACK AND AUTHORIZING THE MAYOR TO EXECUTE SAME

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Internship Agreement ("Agreement") between the City of Pueblo, a municipal corporation, the Western Illinois University School of Law Enforcement and Justice Administration, a public university, and Katheryn Black, a private person, 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 Agreement for and on behalf of the City and the City Clerk is authorized 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 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 December 12, 2022.

Final adoption of Ordinance by City Council on December 27, 2022.



President of City Council

Action by the Mayor:

- ☒ Approved on December 29, 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

K.R. P
Deputy City Clerk

FORM II
INTERNSHIP AGREEMENT
Western Illinois University
School of Law Enforcement and Justice Administration
LEJA 490: Internship

The internship in Law Enforcement and Justice Administration (LEJA) is designed to provide an opportunity for practical application of classroom theory in professional fieldwork. The student should acquire experience in criminal justice planning, leadership, supervision, and program evaluation by working with an approved criminal justice program under highly trained personnel in varied settings. The student, the instructor, and the agency involved in the field experience will all share in the responsibilities of the experience.

1. The student will achieve approximately 360 contact hours in professional fieldwork and related studies for which s/he will receive 12 semester hours of credit upon satisfactory completion. Any compensation to the intern is completely at the discretion of the participating agency and is not required. However, the student is expected to follow the rules, regulations, and policies of the agency as an intern/volunteer.
2. The School of Law Enforcement and Justice Administration will provide a written guide to the internship, www.wiu.edu/leja (Current Students, Internship Book and Forms). The internship book will be available to delineate philosophy and objectives of the internship; progression and scope of the internship; the policies and procedures, and the forms and reports to be submitted.
3. The School of Law Enforcement and Justice Administration will provide the agency with a Student Information Sheet, Statement of Insurance and Waiver and Release Forms (attached). Evaluation of the agency's participation will be made at least once a year.
4. The student may participate in planning their program for field experience, and will submit weekly reports to the agency and University supervisors; have periodic conferences with agency supervisors; and participate in the final evaluation of internship.
5. The agency and the School of Law Enforcement and Justice Administration will jointly agree upon placement of a student in the agency, after consultation with the student and in consideration of the needs of the student in relation to what the agency can provide. The student will arrange for an interview, if necessary, before a final decision is made. Upon selection of the agency for placement, a general plan for the student during the entire field experience should be developed in consideration of the student's goals and objectives for this experience.
6. The field experience should include multiple experiences with more than one facet of the agency in order to provide an understanding of the total scope of agency operations. For example, interns could be given opportunities to plan, organize, and lead program activities, as well as opportunities to observe and participate in field experiences.
7. When necessary, the agency may alter the above statements to make the requirements appropriate to the agency setting or to meet the student's individual needs. However, the School of Law Enforcement and Justice Administration must be notified of substantial changes.

Western Illinois University's School of Law Enforcement and Justice Administration
And
Pueblo, A Colorado Municipal Corporation
Chief Chris Noeller

200 South Main Street	Pueblo	CO	81003	(719)553-2539
(Street)	(City)	(State)	(Zip)	(Area Code/Phone #)

agree to the provisions of the above statement for the following student: Katheryn Black

Beginning Date: January 16, 2023

Ending Date: May 5, 2023

Signed: Katheryn Black
(Student Signature)

Signed: [Signature]
(Faculty Signature)

Signed Accepted: _____
(Agency Coordinator Signature)

Signed Denied: _____
(Agency Coordinator Signature)

Date: 11/30/22

Date: 11/28/22

Date: _____

Date: _____

This form must be signed either accepted or denied and returned to: LEJA Internship Coordinator, Law Enforcement and Justice Administration (LEJA), Western Illinois University (WIU), One University Circle, Macomb, IL 61455 at your earliest convenience (or fax to 309/298-2516 or email leja-internship@wiu.edu). If accepted, the student will report to the agency the first day of scheduled internship at a time designated by the agency.

Telephone 309/298-1439 - Internship Coordinator, Fax: 309/298-2516
School of LEJA Main Office 309/298-1038 (Fax: 309/298-2187)
E-mail: leja-internship@wiu.edu



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 12, 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 AN ADDENDUM TO THE DEPARTMENT OF DEFENSE LAW ENFORCEMENT SUPPORT OFFICE ("LESO") PROGRAM STATE PLAN OF OPERATION ("SPO") AND APPLICABLE CONDITIONS PERTAINING THERETO BETWEEN THE STATE OF COLORADO AND THE CITY OF PUEBLO ON BEHALF OF THE PUEBLO POLICE DEPARTMENT RELATING TO DEPARTMENT OF DEFENSE EXCESS PROPERTY CONDITIONALLY TRANSFERRED TO THE CITY

SUMMARY:

This ordinance approves an addendum to an agreement of the existing State Plan of Operation (dated February 2021) between the State and the Pueblo Police Department in reference to the Law Enforcement Support Office (LESO) program. The LESO Program, formerly known as the 1033 Program, authorizes the U.S. Department of Defense Law Enforcement Support Office and the Secretary of Defense to transfer excess Department of Defense supplies and equipment to state and local law enforcement agencies for use in their law enforcement duties.

PREVIOUS COUNCIL ACTION:

No prior Council action exists with respect to this subject matter.

BACKGROUND:

The Law Enforcement Support Office (LESO) within the Department of Defense (DoD), Defense Logistics Agency (DLA), facilitates the 1033 Program, which originated from the [National Defense Authorization Act of Fiscal Year 1997](#). This law allows the transfer of excess DoD property that might otherwise be destroyed to law enforcement agencies across the United States and its territories.

To be eligible to participate in this program, an agency must be a qualified Law Enforcement Agency (LEA). The Pueblo Police Department (PPD) has participated in this program, and its predecessor 1033 program, for many years. During that time, the PPD was able to obtain multiple pieces of decommissioned military equipment and supplies for PPD use, including certain firearms, and the MRAP vehicle. These pieces have allowed the Department improved response to disaster relief, threats of possible explosives, and other significant law enforcement incidents. The pieces of equipment obtained through the program have been invaluable to the PPD because they decrease the safety risks to officers as they respond to incidents, while enhancing the quality and scope of services the PPD is able to provide to the community with a primary focus on protecting the health and safety of all Pueblo citizens.

Once the department no longer has a use for property gained through the program, it can transfer it to another LEA, turn it back in to the DoD, or otherwise dispose of it.

FINANCIAL IMPLICATIONS:

This agreement will require monitoring, auditing, and submission of financial documents which will impact the City with staffing costs. There is no expected hard cost financial implication associated with this program; however, the City will be responsible for the maintenance costs of equipment obtained through the program.

Matching funds from the City are not required for this grant.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

The Pueblo Police Department supports the agreement to increase the equipment and resources available to the Department.

ALTERNATIVES:

Acceptance of this addendum is required to maintain compliance with the Department of Defense Law Enforcement Support Office ("LESO") Program State Plan of Operation ("SPO") terms and requirements.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. FINAL SPO Addendum 08152022

ORDINANCE NO. 10359

AN ORDINANCE APPROVING AND ACCEPTING AN ADDENDUM TO THE DEPARTMENT OF DEFENSE LAW ENFORCEMENT SUPPORT OFFICE ("LESO") PROGRAM STATE PLAN OF OPERATION ("SPO") AND APPLICABLE CONDITIONS PERTAINING THERETO BETWEEN THE STATE OF COLORADO AND THE CITY OF PUEBLO ON BEHALF OF THE PUEBLO POLICE DEPARTMENT RELATING TO DEPARTMENT OF DEFENSE EXCESS PROPERTY CONDITIONALLY TRANSFERRED TO THE CITY

WHEREAS, WHEREAS, the City Council of Pueblo has the authority on behalf of the City of Pueblo, including its Police Department, to accept property or equipment from the federal and state governments for public and municipal purposes and to enter into agreements relating thereto; and

WHEREAS, the State Plan of Operation ("SPO") Agreement and Addendum between the State of Colorado and the City of Pueblo permits excess federal property to be conditionally transferred to the City and Pueblo Police Department for its use, subject to upon terms and conditions recited therein or incorporated therein by reference; and

WHEREAS, acceptance of the Addendum 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.

The Addendum to the State Plan of Operation ("SPO") Agreement between the State of Colorado and City of Pueblo, having been approved as to form by the City Attorney, is hereby approved and accepted in accordance with its terms and conditions. All prior related agreements including the State Plan of Operation ("SPO") are hereby approved and ratified.

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 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 December 12, 2022.

Final adoption of Ordinance by City Council on December 27, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 29, 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



Deputy City Clerk



**DEFENSE LOGISTICS AGENCY
DISPOSITION SERVICES
74 WASHINGTON AVENUE NORTH
BATTLE CREEK, MICHIGAN 49037-3092**

GPL

August 15, 2022

**MEMORANDUM FOR LAW ENFORCEMENT SUPPORT OFFICE (LESO) PROGRAM
PARTICIPATING LAW ENFORCEMENT AGENCY (LEA)**

SUBJECT: Addendum to LESO Program State Plan of Operation (SPO)

This addendum amends the existing State Plan of Operation (dated February 2021) between the State and Law Enforcement Agency (LEA) and is herein referred to as the SPO Addendum. The SPO Addendum implements requirements found within Presidential Executive Order (EO) 14074 (Section 12), signed on May 25, 2022. In accordance with current SPO-Paragraph 17, notice is being provided of a unilateral change to the SPO. Unless an LEA takes immediate action to terminate the current SPO, the modifications or amendments will become binding.

1) ROLES AND RESPONSIBILITIES The State Shall:

- a) Ensure each LESO Program participating Law Enforcement Agency (LEA) has signed the LESO-approved SPO Addendum no later than January 1, 2023. The SPO Addendum will be signed by the Chief Law Enforcement Official (CLEO) (or assigned designee) and the current State Coordinator (SC) (or authorized State Point of Contact [SPOC]).
- b) Provide LESO with a comprehensive list of LEAs who do not sign the SPO Addendum by January 1, 2023. LESO will restrict the LEA to ensure LEA may not request or receive “controlled” property as defined within this addendum.

2) MODIFICATION TO DEFINITION OF “CONTROLLED” PROPERTY This SPO Addendum adds the below items to the “controlled” property definitions currently found in the 2021 SPO. These items are added pursuant to EO 14074 which reestablishes EO 13688. In 2017, the Law Enforcement Equipment Working Group (established by EO 13688), further added, deleted and refined the definitions of “controlled” items in their annual equipment list review. Provisions within the 2021 MOA applicable to “controlled” property apply to the items listed below (regardless of DEMIL and/or DEMIL Integrity Code). Title and ownership of the “controlled” property listed below remains with the DoD in perpetuity and will not be relinquished to the LEA (regardless of DEMIL and/or Integrity Code). The LESO retains final authority to determine what items qualify as “controlled” property. The below items listed in Section 1.2 of Law Enforcement Equipment Working Group (LEEWG) Recommendations (as modified in 2017), will be managed and issued as controlled property unless other restrictions or conditions are noted:

- a) *Manned Aircraft, Fixed Wing:* Powered aircraft with a crew aboard, such as airplanes, that use a fixed wing for lift. (Note: These items were previously listed as controlled in LESO Program. Any aircraft without commercial application are prohibited).
- b) *Manned Aircraft Rotary Wing:* Powered aircraft with a crew aboard, such as helicopters, that use a rotary wing for lift. (Note: These items were previously listed as controlled in LESO Program. Any aircraft without commercial application are prohibited).

- c) *Unmanned Aerial Vehicles*: A remotely piloted powered aircraft without a crew onboard. (Note: These items are not currently issued in the LESO Program).
- d) *Armored Vehicles, Wheeled*: Any wheeled vehicle either purpose-built or modified to provide ballistic protection to its occupants, such as a Mine-Resistant Ambush Protected (MRAP) vehicle or an Armored Personnel Carrier (APC). These vehicles are sometimes used by law enforcement personnel involved in dangerous operating conditions, including active shooter or similar high-threat situations. These vehicles often have weapon-firing ports. (Note: These vehicles were previously considered controlled due to DEMIL code and are now prohibited unless certification requirements in Section 3 are met).
- e) *Tactical Vehicles, Wheeled*: A vehicle purpose-built to operate on- and off- road in support of military operations, such as a High Mobility Multi-purpose Wheeled Vehicle (HMMWV), 2.5-ton truck, 5-ton truck, or a vehicle with a breaching or entry apparatus attached. These vehicles are sometimes used by law enforcement in rough terrain or inclement weather for search and rescue operations, as well as other law enforcement functions. This excludes commercially available vehicles not tactical in nature, such as pick-up trucks or SUVs. (Note 1: This is LEEWG modified definition from 2017. Note 2: All tactical vehicles will now be considered controlled, and title will not pass. Note 3: Armored vehicles in this category will be considered prohibited unless certification requirements in Section 3 are met).
- f) *Command and Control Vehicles*: Any wheeled vehicle either purpose-built or modified to facilitate the operational control and direction of public safety units responding to an incident. Command and control vehicles provide a variety of capabilities to incident Commander, including, but not limited to, the provision for enhanced communications and other situational awareness capabilities. Command and Control Vehicles are similar to a recreational vehicle and can accommodate multiple people at multiple workstations in the command center. This category does not include SUVs and is not intended for other types of vehicles that could serve as a command-and-control center. (Note 1: This is the LEEWG modified definition from 2017. Note 2: Armored vehicles in this category will be considered prohibited unless certification requirements in Section 3 are met).
- g) *Specialized Firearms and Ammunition Under .50-Caliber (excludes firearms and ammunition designed for regularly assigned duties) and less lethal launchers*: Weapons and corresponding ammunition for specialized operations or assignment. This includes launchers specifically designed and built to launch less lethal projectiles. This excludes weapons such as service issued handguns, rifles or shotguns that are issued or approved by the agency to be used by all sworn officers/deputies during the course of regularly assigned duties. (Note 1: This is the LEEWG modified definition from 2017. Note 2: The LESO Program only issues weapons under .50 caliber that are designed for regularly assigned duties).
- h) *Explosives and Pyrotechnics*: Includes “flash bangs” as well as explosive breaching tools often used by special operations units. (Note: These items were previously prohibited in the LESO Program and are now specifically prohibited in EO 14074).
- i) *Breaching Apparatus*: Tools designed to provide rapid entry into a building or through a secured doorway. These tools may be mechanical in nature (a battering ram connected to a vehicle or a propellant), ballistic (slugs), or explosive. This category does not include dual purpose tools such as a sledgehammer or bolt cutter. (Note: This is the LEEWG modified definition from 2017).
- j) *Riot/Crowd Control Batons*: Non-expandable of greater length (more than 24 inches) than service-issued types and are intended to protect its wielder during crowd control situations by providing distance from assailants. This category includes all batons with advanced features such as tear gas discharge, electronic or “stun” capabilities. (Note: This is the LEEWG modified definition from 2017).

k) *Riot Helmets*: Helmets designed to protect the wearer's face and head from injury during melees from projectiles including rocks, bricks, liquids, etc. Riot helmets include a visor which protects the face. (Note 1: The LEEWG removed these items from the controlled list in 2017. Note 2: LESO does not issue Kevlar helmets based on DoD policy).

l) *Riot/Crowd Control Shields*: Shields intended to protect wielders from their head to their knees in crowd control situations. Most are designed for the protection of the user from projectiles including rocks, bricks, and liquids. Some afford limited ballistic protection as well. (Note: This is the LEEWG modified definition from 2017).

3) PROHIBITED ITEMS THAT MAY BE ISSUED FOR LIMITED PURPOSES EO 14074 lists the below items as "prohibited" for issue under the LESO Program; however identifies specific authorized uses for these "prohibited" items if requested, utilized and annually certified as being used only in authorized manners. When utilized in an authorized manner (as indicated in the below example descriptions), the items are categorized as "controlled" property.

a) *Long Range Acoustic Devices (LRAD) that do not have commercial application*- LRADs are capable of directing sound over great distances at extreme volume in more geographical precision than an ordinary speaker. Certain LRAD capabilities which are aimed at dispersing individuals or groups as a kinetic use-of-force shall not be used. Examples of LRAD capabilities that shall not be used include (but are not limited to) attention commanding alert tones, powerful warning tones and/or deterrent tones.

i) *Authorized uses*- LRADs may only be utilized as a public address system for commercial purposes. Any other use is not authorized.

ii) *Annual Certification Requirements*- During the LESO Program annual inventory, LEAs with LRADs must certify that the LRAD is utilized exclusively as a public address system for commercial purposes. An LEAs signature on the SPO Addendum agreeing to these new terms will serve as initial certification.

iii) LEAs that do not have a current SPO Addendum on file by January 1, 2023 or who fail to annually certify the LRAD is being used in an authorized manner must return LRAD(s) to DLA Disposition Services.

b) *Vehicles that do not have commercial application*- This includes all tracked and armored vehicles, such as a Mine-Resistant Ambush Protected (MRAP), Armored Personnel Carrier (APC), or Armored HMMWV. (Note: This category excludes vehicles with commercial application, such as pick-up trucks, non-armored HMMWVs, 2.5-ton trucks, 5-ton trucks, or SUVs. The LESO Program identifies/defines vehicles with "commercial application" as items with a DEMIL Code of "A" or DEMIL "Q" (with an Integrity Code of 6) that may be sold to the general public under DoD sales programs).

i) *Authorized uses*- EO 14074 allows limited transfer of vehicles that do not have commercial application if the LEA certifies that the vehicle will be used exclusively for disaster-related emergencies; active shooter scenarios; hostage or other search and rescue operations; or anti-terrorism preparedness, protection, prevention, response, recovery, or relief. Any other use of these vehicles is not authorized.

ii) *Annual Certification Requirements*- During the LESO Program annual inventory, LEAs with these vehicles must certify that the vehicle(s) is utilized exclusively for disaster-related emergencies; active shooter scenarios; hostage or other search and rescue operations; or anti-terrorism preparedness, protection, prevention, response, recovery, or relief. An LEAs signature on the SPO Addendum agreeing to these new terms will serve as initial certification.

iii) LEAs that do not have a current SPO Addendum on file by January 1, 2023 or who fail to annually certify that the vehicle(s) use is exclusively for disaster-related emergencies; active shooter scenarios; hostage or other search and rescue operations; or anti-terrorism preparedness, protection, prevention, response, recovery, or relief must return vehicle(s) to DLA Disposition Services.

4) ACQUIRING (OR RETAINING) CONTROLLED PROPERTY The State shall:

a) Review, verify and only submit to LESO for approval, requests for controlled property by LEAs who have current SPO and SPO Addendum on file with the state.

b) Ensure LEAs return controlled property to DLA Disposition Services if the Department of Justice (DOJ) determines or a Federal, State, Tribal, local, or territorial court enters a final judgment finding that the LEA has engaged in a pattern or practice of civil rights violations.

c) Ensure that prior to requesting/acquiring any controlled property, the LEAs:

i) Provide written or electronic notification to the local community of its intent to request controlled property. The notification must be translated into appropriate languages to inform individuals with limited English proficiency. The LESO Program would *recommend* that LEAs provide a notice of intent to request controlled property to the local community on or before January 1, 2023 and at the beginning of each fiscal year (October 1st) thereafter. This notification should include a comprehensive list of any controlled property that may be requested throughout the year. If this notice of intent does not include a specific controlled property item, such item may not be requested in the LESO Program until 30-days after an updated notice is published.

ii) Provide written or electronic notification to the city council or appropriate local Civilian Governing Body (CGB) of its intent to request controlled property and allow “reasonable opportunity to review” (normally 30-days). The LESO Program would *recommend* that LEAs provide a notice of intent to the CGB on or before January 1, 2023 and at the beginning of each fiscal year (October 1st) thereafter. This notification should include a comprehensive list of any controlled property that may be requested throughout the year. If this notice of intent does not include a specific controlled property item, such item may not be requested in the LESO Program until 30-days after an updated notice is published. Requests for controlled property must comport with all applicable approval requirements of the CGB.

(1) The above requirement includes elected Sheriff’s who also shall notify their CGB or city or county government within their jurisdiction.

(2) In cases of disagreement between requesting LEAs and CGB, the Governor appointed LESO Program State Coordinator (SC) will obtain an advisory opinion from the States Attorney General’s Office on whether CGBs are authorized by state law to deny the request.

iii) *Campus LEAs operating in Institutions of Higher Education (IHE)*- LEAs operating in IHEs otherwise referred to as “Campus Police” or “Campus LEAs” must also adhere to the requirements identified below:

(1) Obtain the IHE Board of Governors (or an equivalent body) *explicit approval* for the acquisition of controlled property. Such approval must be evidenced in the Campus LEAs request submitted to the LESO Program. Silence or inaction by the Campus LEAs Board of Governors does not constitute evidence of approval, and the “reasonable opportunity to review” (normally 30-days) standard does not apply to Campus LEA applications.

(2) Certify that their policies and training include specific provisions on using controlled property in a way that does not chill speech, is not disruptive to the educational environment, and does not foster a hostile climate among students.

(3) Campus LEAs who receive controlled vehicles are required to remove the militaristic appearance (i.e., painting the vehicle a different color).

5) REGIONAL SHARING AGREEMENTS LESO Program participants who are part of a regional sharing agreement must also adhere to the following requirements. LEAs shall:

a) Provide information regarding the size of the region, including the number and size of the LEA with access to the requested controlled property and the estimated population served.

b) Ensure any controlled property providing support in a regional sharing agreement is utilized in accordance with the LESO Program SPO and this SPO Addendum.

c) Ensure that only LESO Program participants within the regional sharing agreement utilize the controlled property. Agencies/activities who are not LESO Program participants may not utilize or direct the use of controlled property obtained via the LESO Program.

d) Obtain SC/SPOC approval to temporarily conditionally loan property to another LESO Program participant within the regional sharing agreement (if mission requires). If the SC/SPOC approves the temporary conditional loan, it shall be done using an acceptable Equipment Custody Receipt (ECR). At the end of the temporary conditional loan, the item (s) shall be returned to the original LEA for accountability. All requests for conditional loans will be based on bona fide law enforcement requirements.

i) The LESO Program participant with controlled property on their inventory must certify that the other LESO Program participant in the regional sharing agreement requesting the property under a conditional loan:

(1) Has adopted requisite protocols (in Section 6 below) or will adopt those protocols before their personnel use the controlled property,

(2) Have provided requisite training (in Section 7 below) or will provide that training before their personnel use the controlled property, and

(3) Will adhere to the information collection and retention requirements (in Section 8 below).

ii) The LEA conditionally loaning the controlled property will remain accountable to the LESO Program to ensure the above provisions are met.

6) POLICIES/PROCEDURES LEAs must establish policies/procedures that are consistent with the standards listed below, in order to request or maintain controlled property. LEAs must:

a) Adopt and comply with general policing standards.

i) *Community Policing*- LEA policies/procedures should reflect the concept that trust and mutual respect between police and the communities they serve are critical to public safety. Community policing fosters relationships between law enforcement and the local community which promotes public confidence in LEAs therefore increasing LEA ability to investigate crimes and keep the peace.

ii) *Constitutional Policing*- LEA policies/procedures must emphasize that all police work should be carried out in a manner consistent with the requirements of the U.S. Constitution and federal law. Policies/procedures must include First, Fourth, and Fourteenth Amendment principles in law enforcement activity, as well as compliance with Federal and State civil rights laws. LEA certified law enforcement officers receive training on the rights embodied by such Constitutional Amendments and how these amendments inform policing policies/procedures.

iii) *Community Input and Impact*- LEA policies/procedures must identify mechanisms that LEAs will use to engage the communities they serve to inform them and seek their input about LEAs actions, role in, and relationships with the community. LEAs should make particular efforts to seek the input of communities where controlled property is likely to be used so as to mitigate the effect that such use may have on public confidence in the police. This could be achieved through the LEAs regular interactions with the public through community forums, town halls, or meetings with the Chief, or community outreach divisions.

b) Adopt and comply with controlled property standards.

i) *Appropriate Use of Controlled Property*- LEA policies/procedures must define appropriate use of controlled property; officers who are authorized to use controlled property must be trained on these policies/procedures. LEAs should examine scenarios in which controlled property will likely be deployed, the decision-making processes that will determine whether controlled property is used, and the potential that both use and misuse of controlled property could create fear and distrust in the community. Policies/procedures should consider whether measures can be taken to mitigate that effect (i.e., keep armored vehicles at a staging area until needed) and any alternatives to the use of such property and tactics to minimize negative effects on the community, while preserving officer safety.

ii) *Supervision of Use*- LEA policies/procedures must specify appropriate supervision of personnel operating or utilizing controlled property. Supervision must be tailored to the type of controlled property being used and the nature of the engagement or operation during which the property will be used. Policies/procedures must describe when a supervisor of appropriate authority is required to be present and actively overseeing the property being used.

iii) *Effectiveness Evaluation*- LEA policies/procedures must articulate that the LEA will regularly monitor and evaluate the effectiveness and value of controlled property to determine whether continued deployment and use is warranted on operational, tactical, and technical grounds. LEAs should routinely review after-action reports and analyze any data on, for example, how often controlled property is used or whether controlled property is used more frequently in certain law enforcement operations or in particular locations or neighborhoods.

iv) *Auditing and Accountability*- LEA must establish policies/procedures that are designed to prevent misuse, unauthorized use and/or loss of controlled property. LEA will hold personnel accountable to agree and comply with State, local, Tribal and Federal controlled property use policies/procedures.

v) *Transparency and Notice*- LEA policies/procedures must articulate that LEA will engage the community regarding controlled property, policies/procedures governing its use, and review of “significant incidents” (as defined in Section 8), with the understanding that there are reasonable limitations on disclosures of certain information and law enforcement sensitive operations and procedures.

c) Must adopt and comply with record-keeping requirements for controlled property.

i) Upon LESO request, LEAs must provide a copy of the general policing standards and specific controlled property standards that were adopted, to include any related policies/procedures.

ii) *Record-Keeping Requirement*- LEAs must retain comprehensive training records, either in the personnel file of the officer who was trained or by the LEAs training division or equivalent entity, for a period of at least three (3) years, and must provide a copy of these records, upon LESO request.

7) TRAINING LEAs that request or have acquired controlled property via the LESO Program must establish written policies/procedures for controlled property use, and all personnel who are authorized to use the controlled property will be trained on these policies/procedures. LEAs must:

a) Provide annual training on general policing standards to personnel who may use the controlled property.

b) Provide annual training on property standards to personnel who may use the controlled property.

c) Provide controlled property operational and technical training to personnel and ensure personnel are proficient prior to using controlled property.

d) Provide scenario-based training to personnel that combines constitutional and community policing principles with controlled property specific training. LEA personnel authorizing or directing the use of controlled property should have enhanced scenario-based training to examine, deliberate, and review the circumstances in which controlled property should or should not be used.

8) DOCUMENTATION REQUIRED FOR “SIGNIFICANT INCIDENTS” LEAs must collect and retain the information (described below) when any law enforcement activity involves a “Significant Incident” which requires (or results in) the use of controlled property on the LEAs inventory. A “Significant Incident” is defined as any law enforcement operation or action that involves: 1) a violent encounter among civilians or between civilians and the police, 2) a use-of-force that causes death or serious bodily injury, 3) a demonstration or other public exercise of First Amendment rights, or 4) an event that draws, or could be reasonably expected to draw, a large number of attendees or participants, such as those where advanced planning is needed. LEAs must:

a) Collect and retain documentation for controlled property used in a “Significant Incident” for a minimum of three (3) years after the incident has occurred. The LEA must provide documentation to LESO upon request.

i) Documentation should also be made available to the community the LEA serves in accordance with applicable policies/procedures with exemptions made concerning the disclosure of any sensitive information.

b) No new report or format is required for “Significant Incident” reports so long as information is easily accessible and organized. The required information may already exist in a police report, operations plan, officer daily log, incident report, after-action report or described in a use-of-force report. If required information (annotated below) is contained in a pre-existing reports, the LEA must simply ensure that the report includes information that controlled property was used. Required information is listed below:

i) Name and quantity of controlled property used, including relevant details such as make/model/serial number of controlled property used.

- ii) Description of the LEA action/operation involving the controlled property.
- iii) Identification of LEA personnel who used and directed the use of the controlled property.
- iv) Identify or describe civilians who were the subject or target of LEA action/operation. For large crowds or multiple persons, the LEA must provide general description of the civilians (i.e., a crowd of approximately 250 people).
- v) Result of the action/operation in which controlled property was used (i.e., arrests, citations, injuries or fatalities, use-of-force, victim extraction, or property damage).

9) ANNUAL CERTIFICATIONS By signing the SPO Addendum, the LEA agrees to the below certification statements. In addition, the LEA must annually certify compliance with the below certification statements during the Annual LESO Program Inventory. LEAs must:

- a) Certify they have authorization from their CGB to participate in the LESO Program.
- b) Certify they have provided their CGB and local community a comprehensive list of controlled property that may be requested through the LESO Program.
 - i) Notification may be made electronically or in writing and must be translated into appropriate languages to inform individuals with limited English proficiency. It is recommended this notification be done on an annual basis.
 - ii) If controlled property is not identified in the comprehensive list provided to the CGB and local community, an updated notification to CGB and local community must be made. The CGB and local community will be afforded 30-days to review what additional items are being requested.
- c) Certify the request for controlled property comports/complies with all applicable approval requirements of the CGB.
- d) Certify they have adopted and comply with controlled property standards (i.e., appropriate use, supervision of use, effectiveness evaluation, auditing/accountability of use, transparency/notice of use, and record-keeping requirements).
- e) Certify they have provided annual training to personnel on the maintenance, sustainment, and appropriate use of controlled property, including respect for the rights of citizens under the Constitution of the United States and de-escalation of force.
- f) (*LEAs with LRADs*) Certify that the LRAD is utilized exclusively as a public address system for commercial purposes.
- g) Certify that controlled property vehicle(s) are utilized exclusively for disaster-related emergencies; active shooter scenarios; hostage or other search and rescue operations; or anti-terrorism preparedness, protection, prevention, response, recovery, or relief.
- h) Certify that controlled property requiring a license (or other authorization), is only utilized by personnel who hold license (or other authorization) to operate such property.
- i) Certify that controlled property will be returned to DLA Disposition Services when no longer needed.
- j) Certify that they are abiding by the current LESO Program SPO and SPO Addendum, and maintain a signed copy of these documents on file.

k) Certify the Application for Participation on-file with LESO Program is current and accurately reflects the number of officers in the agency when fully staffed. (Note: If Application for Participation is not accurate, LEA must provide an updated Application for Participation to State Coordinators Office).

l) Certify they are compliant with LESO Program allocation limits. (Note: Property allocation limits are based on the number of officers at an LEA when fully staffed).

m) Certify that they agree to return the controlled property if the Department of Justice (DOJ) determines or a Federal, State, Tribal, local, or territorial court enters a final judgment finding that the LEA has engaged in a pattern or practice of civil rights violations.

n) *Campus LEAs (as described in Section 4)* must also certify that their policies and training include specific provisions on using controlled property in a way that does not chill speech, is not disruptive to the educational environment, and does not foster a hostile climate among students.

o) *Program participants who are part of a regional sharing agreement (as described in Section 5)*, must also certify that the other LESO Program participant in the regional sharing agreement requesting the property under a conditional loan: 1) Have adopted requisite protocols in (as described in Section 6) or will adopt those protocols before their personnel use the controlled property, 2) Have provided requisite training (as described in Section 7) or will provide that training before their personnel use the controlled property, and 3) Will adhere to the information collection and retention requirements (as described in Section 8).

10) SAVINGS CLAUSE/INTERPRETATION Nothing in this SPO Addendum shall be construed to impair or otherwise affect the requirements under the existing SPO between the State and LEA (dated February 2021), unless expressly amended herein. To the extent there is a disagreement concerning the interpretation of this SPO Addendum or the extent this SPO Addendum affects requirements under the existing SPO, the disagreement shall be resolved at the exclusive discretion of the LESO Program.

11) AGREEMENTS OF PARTIES By signing this SPO Addendum, the State and LEA acknowledges and accepts these changes. The SPO Addendum must be signed by LEAs no later than January 1, 2023 to remain eligible for LESO Program participation. The changes contained in this SPO Addendum are acknowledged and accepted by the following:

Governor-appointed State Coordinator State of Colorado

Title (Print): State Coordinator

Name (Print): Kellye Potocki

Signature (Sign): Kellye Potocki Date MM/DD/YYYY: 9-13-2022

Law Enforcement Agency Name: _____

Chief Law Enforcement Official (CLEO) Title (Print): _____

Name (Print): _____

Signature (Sign): _____ Date MM/DD/YYYY: _____



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 12, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Trevor Gloss, Assistant City Attorney
Valarie Palumbo, Sales Tax Manager

SUBJECT: AN ORDINANCE AMENDING CHAPTER 10 OF TITLE IX OF THE PUEBLO MUNICIPAL CODE, UPDATING BUSINESS LICENSING PROVISIONS RELATED TO EMPLOYMENT AGENCIES

SUMMARY:

Attached for consideration is a text amendment that will amend Chapter 10 of Title IX of the Pueblo Municipal Code, updating business licensing provisions related to employment agencies.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

Pueblo Municipal Code Sections 31 through 37 of Chapter 10, Title IX, as originally enacted and still in force, require employment agencies to meet certain business licensing requirements. However, these provisions have not been amended since originally enacted in 1957, and changes are needed to bring the provisions up to date with current law. This Ordinance makes those required changes.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If the code is not amended in accordance with this Ordinance, the code provisions as they are may be found to conflict with current law.

RECOMMENDATION:

Staff recommends approval of this Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10360

AN ORDINANCE AMENDING CHAPTER 10 OF TITLE IX OF
THE PUEBLO MUNICIPAL CODE, UPDATING BUSINESS
LICENSING PROVISIONS RELATED TO EMPLOYMENT
AGENCIES

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1.

Section 9-10-31 of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 9-10-31. Employment and intelligence office or agency; license required; definition.

[(a)] It shall be unlawful for any person to keep open or establish within the limits of the City any intelligence or employment office or agency, hereinafter "Employment Agency", for the purpose of procuring or obtaining for money or other valuable consideration, either directly or indirectly, any work, employment or occupation for persons seeking the same, or to otherwise engage in the business or to otherwise act as a broker between employers and parties seeking work without first having obtained a license from the City so to do.

[(b Wage broker shall mean any person loaning money directly or indirectly to any employee or wage earner upon the security of, or in consideration of, any assignment of the wages or salary of such employee or wage earner.)]

SECTION 2.

Section 9-10-32 of the Pueblo Municipal Code is hereby amended to read as follows:

9-10-32. Fees; bond, amount, conditions, renewal.

(a) The annual license fee shall be fifty dollars (\$50.00) entitling the licensee to do business until the first day of the next calendar year.

(b) The applicant shall deposit with the [City Clerk] Licensing Officer a bond in the penal sum of one thousand dollars (\$1,000.00) with two (2) or more sureties, or reliable surety company, to be approved by the City Attorney, payable to the City, conditioned that the person applying for the license will comply with the ordinances of the City relative to [intelligence or employment offices] Employment Agencies, and will pay all damages occasioned to any person by reason of any misstatement, misrepresentation, fraud or deceit made in carrying on the business for which they are licensed. If at any time the sureties [, or any of them,] on any such bond [shall] become irresponsible, the person holding any such license shall, upon notice from the [City Clerk] Licensing Officer, give a new bond to be approved as [hereinbefore] herein provided. Failure to give a new bond, within ten (10) days after notice, shall be a violation of these ordinances and operate as a [revocation] surrender of such license.

SECTION 3.

Section 9-10-33 of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 9-10-33. Certificate, display; rates.

It shall be the duty of all persons licensed hereby to keep the [same] **license certificate** publicly exposed to view, in a conspicuous place in their office or place of business, together with a printed schedule of the fees to be charged for service, [, which fees shall be as follows, to wit: for males, five percent (5%) and no more, on one (1) month's wages and board; for females, three percent (3%) and no more on one (1) month's wages and board; and no other so called bonus or fee shall be exacted from such applicant.] Every person paying the required fee shall receive a receipt for the same, which receipt shall state in plain terms the agreement between the [intelligence or employment agent or broker] **Employment Agency** and the person paying such fee, and if the terms of such agreement are not fulfilled, then such fee shall be returned to the person paying the same.

SECTION 4.

Section 9-10-34 of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 9-10-34. Register required; information entered; inspection.

Persons duly licensed under this Article shall [enter upon a register to be kept for that purpose] **record in a register** every order received from any person desiring the services of [persons seeking work or employment] **the Employment Agency**; the name and address of the person from whom such order was received; the number of persons wanted; the nature of the work or employment; the wages to be paid; and a correct record of the names of all persons who have been sent to procure work or employment on such order. No order for help shall be considered a bona fide order unless the same shall be entered upon a register as herein before provided. There shall also be entered [upon] **in** such register the names of all applicants depositing a fee for the purpose [of registering their names with a view] of obtaining work or employment, and the nature of the work or employment wanted. Such register shall be open at all reasonable hours to inspection by the Chief of Police or any law enforcement officer.

SECTION 5.

Section 9-10-35 of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 9-10-35. Illegal acts.

It shall be unlawful for any person or his or her agent or employee, engaged in the business of employment or intelligence agent or broker, to give any false information, to make any misstatements or make any false promises concerning any work, employment or occupation, [to charge a greater fee for his or her services to applicants than is provided herein,] to fail to keep [such] a register[,] as is provided for herein, to make any false entries in such register, to send out any help [, male or female,] without having previously obtained a written bona fide order for such help, or to violate any other of the provisions [hereof] **of the Pueblo Municipal Code**.

SECTION 6.

Section 9-10-36 of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 9-10-36. Fee splitting.

It shall be unlawful for any person keeping an [intelligence or employment office] **Employment Agency** to send out help to contractors or other employers [of help] and divide the [office] **collected** fees with such contractors or employers [of help, or their foreman], or anyone in their employ.

SECTION 7.

Section 9-10-37 of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 9-10-37. Exclusions.

Nothing herein contained shall be construed so as to require any religious or charitable association, which may assist in procuring situations or employment for persons seeking the same, to obtain a license so to do, provided that they receive no fees in payment therefor.

SECTION 8.

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

SECTION 9.

This Ordinance shall become effective thirty (30) days after final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 12, 2022.

Final adoption of Ordinance by City Council on December 27, 2022.



President of City Council

Action by the Mayor:

- ☒ Approved on December 29, 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

K.R. P.
Deputy City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 12, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: James Wagner, Assistant City Attorney

SUBJECT: AN ORDINANCE AMENDING CHAPTER 3 OF TITLE VII OF THE PUEBLO MUNICIPAL CODE BY THE ADDITION OF A NEW ARTICLE IV RELATING TO THE CARRYOUT BAG FEES IMPOSED PURSUANT TO THE PLASTIC POLLUTION REDUCTION ACT, SECTION 25-17-501 ET SEQ., C.R.S., AND PROVIDING FOR THE ENFORCEMENT, COLLECTION, REMITTANCE, AND DISTRIBUTION OF SAID FEES

SUMMARY:

Attached for consideration is a new Article IV of Chapter 3 of Title VII of the Pueblo Municipal Code that would provide for the collection, remittance, and distribution of the carryout bag fees collected pursuant to Sec. 25-17-501 et seq., C.R.S., as amended, as well as the penalty for failure to comply with the provisions of said Article.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

On July 6, 2021, Governor Jared Polis signed into law the Plastic Pollution Reduction Act (HB21-1162). Beginning January 1st, 2023, certain retailers will be required to collect a \$0.10 fee for every recycled paper or single-use plastic carryout bag provided to a customer for his or her use. According to the Act, sixty percent (60%) of the fee is required to be remitted to the municipality where the transaction occurred. The Act provides that the funds received by the municipality where the transaction occurred are to be separated from other funds and used for specific purposes related to the implementation of this legislation. The attached Ordinance addresses and provides for the method and manner of collection, remittance and use of such fees as well as providing penalties for violations thereof.

FINANCIAL IMPLICATIONS:

Not significant. It is anticipated that the effect of the Ordinance will provide for more orderly collection of the carryout bag fees and likely increase the amount of such fees received by the City.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

The City Council can choose to not act, and the provisions contained in this Ordinance would not be applicable. As a result, there would be no clear legislation providing for the method and manner of collection, remittance and use of such fees nor any enforcement provisions all of which are authorized by the Plastic Pollution Reduction Act.

RECOMMENDATION:

The proposed Ordinance be passed and approved.

ATTACHMENTS:

None

ORDINANCE NO. 10361

AN ORDINANCE AMENDING CHAPTER 3 OF TITLE VII OF THE PUEBLO MUNICIPAL CODE BY THE ADDITION OF A NEW ARTICLE IV RELATING TO THE CARRYOUT BAG FEES IMPOSED PURSUANT TO THE PLASTIC POLLUTION REDUCTION ACT, SECTION 25-17-501 ET SEQ., C.R.S., AND PROVIDING FOR THE ENFORCEMENT, COLLECTION, REMITTANCE, AND DISTRIBUTION OF SAID FEES

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1.

Chapter 3 of Title VII of the Pueblo Municipal Code is amended by the addition of a new Article IV to read as follows:

ARTICLE IV – Plastic Pollution Reduction Act

Section 7-3-46. – Definitions.

The following definitions shall apply to words and phrases used in this Article:

“Act” shall mean Plastic Pollution Reduction Act, §25-17-501 et seq. C.R.S., as amended.

“Carryout Bag Fee” shall mean the fee imposed pursuant to Section 25-17-505, C.R.S., as amended.

“Retail Food Establishment” shall have the same meaning as that term is defined in Section 25-17-503(9), C.R.S., as amended.

“Store” shall have the same meaning as that term is defined in in Section 25-17-503(14), C.R.S., as amended.

Section 7-3-47. – Recordkeeping and audits.

(a) Each Store required to collect and remit Carryout Bag Fees shall maintain accurate and complete records of such fees collected and the number of recycled paper or single-use carryout bags provided to customers, and shall also maintain such books, accounts, invoices, or other documentation necessary to verify the accuracy and completeness of such records. It shall be the duty of each Store to keep and preserve all such documents and records, including any electronic information, for a period of three (3) years from the end of the calendar year in which the documents or records were generated. In the event of an audit, investigation or other enforcement action, records and documents must be retained until three (3) years after notice of completion or resolution of such audit, investigation or enforcement action.

(b) If requested, each Store shall make the foregoing records available for inspection and audit by the City during regular business hours so that the City may verify compliance with the provisions of this Article and the Act. To the extent permitted by law, all such records shall be treated as confidential commercial information.

Section 7-3-48. – Payment to and administration of the Carryout Bag Fees by the City.

(a) Each Store required to collect and remit Carryout Bag Fees pursuant to the Act shall remit the required portion of those fees to the City of Pueblo Finance Department, along with a form provided by the Director of the Finance Department for that purpose.

(b) Any and all funds remitted to the Finance Department pursuant to subsection (a) of this section shall be credited and deposited into a special fund designated as the “Plastic Pollution Reduction Fund”, which shall be segregated from all other City funds. Said funds shall not be transferred therefrom to any other account of the City or used for any purpose except:

(1) To pay for any administrative and enforcement costs incurred as a result of this Article or the Act; and

(2) To pay for any recycling, composting, or other waste diversion programs and related outreach and education activities.

(c) Any Store required to remit fees pursuant to the Act shall remit on a quarterly basis starting April 1, 2024, the total amount that is owed to the City in the previous quarter. The fees due to the City by the Store shall be due on the twentieth day of the month following the conclusion of each calendar quarter. With respect to fees collected in calendar year 2023, said fees shall be remitted to the City no later than April 20, 2024.

(d) A Store need not remit Carryout Bag Fees collected in any quarter in which the collected fees total less than twenty dollars. The Store shall retain those collected fees until the store has more than twenty dollars worth of collected fees to remit and shall remit those fees as part of the next quarterly remittance.

Section 7-3-49. – Director of Finance’s Authority.

The Director of Finance shall have the authority to prepare and promulgate such rules, regulations, and forms necessary to carry out the provisions of this Article.

Section 7-3-50. – Restriction and Prohibitions on Use.

A Store or Retail Food Establishment located within the City shall comply with all restriction and prohibitions on use set forth within Sections 25-17-504 and 25-17-506 of the Act.

Section 7-3-51. - Violations and penalties.

It shall be unlawful and a Class 2 municipal offense for any Store or Retail Food Establishment to violate any of the provisions of this Article; provided, however, the City shall not enforce any violation of this Article or the Act against a Retail Food Establishment located within a school. Each retail sales transaction in which a violation of this Article is committed, regardless of whether multiple violations of this Article are committed in one retail sales transaction, constitutes a single violation of this Article.

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 policies and procedures described herein.

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 December 12, 2022.

Final adoption of Ordinance by City Council on December 27, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 29, 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



Deputy City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 12, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Alexandria Romero, Director of Finance
Robert Jagger, Deputy City Attorney

SUBJECT: AN ORDINANCE AMENDING SECTION 14-4-21 OF THE PUEBLO MUNICIPAL CODE RELATING TO THE CITY'S SALES AND USE TAX CODE AND EXCLUDING THE STATE CARRYOUT BAG FEE FROM THE DEFINITION OF PURCHASE PRICE

SUMMARY:

The proposed Ordinance excludes the State's carryout bag fee from being subject to City's sales tax.

PREVIOUS COUNCIL ACTION:

The City Sales and Use Tax Code has been amended numerous times to address issues relative payment, collection, settlement, refund and enforcement.

BACKGROUND:

By recent legislation, the State of Colorado has imposed a disposable bag fee on stores that provide recycled paper or single-use plastic carryout bags to their customers. The proposed Ordinance excludes such fee from being included in the definition of purchase price as such term is used in the Sales and Use Tax Code. By such exclusion, the carryout bag fee will not be subject to City's sales tax, but the disposable bag fee will still be imposed pursuant to State law.

FINANCIAL IMPLICATIONS:

The amount of any decrease in sales tax revenue is not reasonably subject to calculation but is not believed to be significant.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If the proposed Ordinance is not passed, the bag fee will be subject to City sales tax.

RECOMMENDATION:

The proposed Ordinance be passed and approved.

ATTACHMENTS:

None

ORDINANCE NO. 10362

AN ORDINANCE AMENDING SECTION 14-4-21 OF THE PUEBLO MUNICIPAL CODE RELATING TO THE CITY'S SALES AND USE TAX CODE AND EXCLUDING THE STATE CARRYOUT BAG FEE FROM THE DEFINITION OF PURCHASE PRICE

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1.

Subsection 24 of Section 14-4-77 of the Pueblo Municipal Code, is amended to read as follows:

Sec. 14-4-21. Definitions.

. . .

When not clearly otherwise indicated by the context, the following words and phrases, as used in this Chapter, shall have the following meanings:

(24) *Price or purchase price* means the price to the consumer, exclusive of any direct tax imposed by the federal government or by this Article, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if:

1. Such exchanged property is to be sold thereafter in the usual course of the retailer's business; or
2. Such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration or certification under the laws of this State, including, but not limited to, vehicles operating upon public highways, off-highway recreation vehicles, watercraft and aircraft. Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

Price or purchase price includes:

1. The amount of money received or due in cash and credits.
2. Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.
3. Any consideration valued in money, such as trading stamps or coupons whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.

4. The total price charged on credit sales, including finance charges which are not separately stated. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated is not part of the purchase price.
5. Installation, delivery and wheeling-in charges included in the purchase price and not separately stated.
6. Transportation and other charges to effect delivery of tangible personal property to the purchaser.
7. Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.
8. The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.

Price or purchase price shall not include:

1. Any sales or use tax imposed by the State or by any political subdivision thereof.
2. The fair market value of property exchanged if such property is to be sold thereafter in the retailer's usual course of business. This is not limited to exchanges in Colorado. Out-of-state trade-ins are an allowable adjustment to the purchase price.
3. Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser. An anticipated discount to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales.

d. Carryout bag fees imposed pursuant to Section 25-17-505, C.R.S., as amended.

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 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 December 12, 2022.

Final adoption of Ordinance by City Council on December 27, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 29, 2022.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

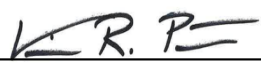
☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



Deputy City Clerk



**BACKGROUND PAPER FOR PROPOSED
ORDINANCE**

COUNCIL MEETING DATE: December 12, 2022

TO: President Heather Graham and Members of City Council
CC: Mayor Nicholas A. Gradisar
VIA: Marisa Stoller, City Clerk
FROM: Marisa Pacheco – Human Resources Director
SUBJECT: AN ORDINANCE PROVIDING FOR THE CITY OF PUEBLO DEPARTMENTAL
AUTHORIZED PERSONNEL POSITIONS FOR THE FISCAL YEAR 2023

SUMMARY:

This Ordinance reflects the authorized departmental staffing for Fiscal Year 2023.

PREVIOUS COUNCIL ACTION:

On December 27, 2021, Ordinance No. 10085 was approved by City Council. This Ordinance provided authorized staffing for Fiscal Year 2022.

BACKGROUND:

This Ordinance reflects the authorized departmental staffing total of 837 for 2023.

The staffing ordinance reflects the following new FTEs added to the 2023 budget that were not previously authorized in staffing.

<u>Classification</u>	<u>Department</u>
1. Internal Auditor	Mayor's Office
2. Airport Maintenance Worker/Ops & Maintenance Specialist	Airport
3. Marketing and Recruitment Specialist	Civil Service
4. Sr Tax Auditor	Finance
5. Firefighter	Fire
6. Firefighter	Fire
7. Firefighter	Fire
8. Firefighter	Fire
9. Firefighter	Fire
10. Firefighter	Fire
11. Media Systems Specialist	Info Technology
12. Assistant City Attorney I	Law
13. Program Coordinator - Sports	Parks & Recreation
14. Code Enforcement Officer	Police
15. Police Payroll Technician	Police

16. Community Service Officer	Police
17. Community Service Officer	Police
18. WW Maintenance Supervisor	Wastewater
19. Pretreatment Compliance Technician	Wastewater

Three vacant, full-time positions were abolished in the 2023 budget and are reflected in this ordinance.

Classification	Department
1. Planner	Planning
2. Lab Analyst	Wastewater
3. WW Electrical Specialist	Wastewater

Funding was restored to the following existing vacancies in the 2023 budget. These changes do not represent additional positions.

Funding Restoration	Department
1. Code Enforcement Officer	Police
2. Office Assistant	Police
3. Inspector/Construction	Public Works

There were also several changes to better reflect the level of responsibilities and duties being performed through retitling, reclassifying, or converting positions. Changes will become effective January 1, 2023, if this ordinance is passed. These represent changes in classification or title only, not new additional positions or staff.

Title	Action	Department
1. Inspector/Streets	Title change to Inspector/Construction	Public Works
2. Inspector/Streets	Title change to Inspector/Construction	Public Works
3. Survey Party Chief- LS	Downgraded to Surveyor	Public Works
4. Sr Office Assistant	Reclassified to Admin Tech	Public Works
5. Aviation Ops Technician	Reclassified to Aviation Security/Contract Coordinator	Airport
6. Court Technician	Reclassified to Court Technician II	Municipal Court

The following positions are included in the authorized staffing numbers for 2023, but do not have funding associated with them.

Vacant/Unfunded	Department
1. Deputy Mayor	Mayor's Office
2. Assistant Director/Info Technology	Information Technology
3. Parking Enforcer	Parking
4. Parks Manager	Parks and Recreation
5. Utility Worker/Park Caretaker I	Parks and Recreation
6. Ice Arena Manager	Parks and Recreation
7. Director of Planning	Planning
8. Office Assistant	Police
9. Office Assistant	Police
10. Police Deputy Chief	Police
11. Equipment Operator II	Public Works
12. Equipment Operator II	Public Works

13. Equipment Operator I	Public Works
14. Equipment Operator I	Public Works
15. Equipment Operator I	Public Works
16. Equipment Operator I	Public Works
17. Sr. Traffic Signal Technician	Public Works
18. Sr. Traffic Signal Technician	Public Works
19. Director Stormwater	Stormwater

FINANCIAL IMPLICATIONS:

The costs associated with the staffing levels included in this Ordinance have been authorized and approved in the 2023 Budget as approved by ordinance on November 28, 2022.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

There are no alternatives to this Ordinance. If this Staffing Ordinance does not receive approval by City Council, there will not be an accurate staffing count available to City Administration and Department Heads.

RECOMMENDATION:

Approval of the Ordinance.

ORDINANCE NO. 10363

AN ORDINANCE PROVIDING FOR THE CITY OF PUEBLO
DEPARTMENTAL AUTHORIZED PERSONNEL POSITIONS FOR
THE FISCAL YEAR 2023

WHEREAS, the Mayor has determined that the following staffing plan for the City Departments best meets the needs of the City; and

WHEREAS, the City Financial Plan (Budget) authorizes the positions as included in the staffing plan; NOW, THEREFORE.

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The following positions shall be authorized for FY 2023:

City Council

City Council President	1
City Council Member	6
Total	7

Mayor's Office

Mayor	1
Chief of Staff	1
Deputy Mayor	1
Director/Just Transitions Program	1
Director/Public Affairs	1
Grant & Resource Development Administrator	1
Internal Auditor	1
Secretary to the Mayor	1
Administrative Assistant	1
Food Project Coordinator	1
Total	10

City Clerk

City Clerk	1
Deputy City Clerk	1
Licensing Coordinator	2
Municipal Records & Technical Coordinator	2*
Senior Office Assistant	1
Total	7

** Temporarily added additional FTE for training purposes as approved by ordinance by Pueblo City Council November 28, 2022. Additional position will be abolished in May 2023.*

Civil Service

Civil Service Administrator	1
Civil Service Commissioner	3
Marketing and Recruiting Specialist	1
Civil Service Analyst	1
Total	6

Finance

Director of Finance	1
Accountant II	4
Accountant I	2
Accounting Manager	1
Assistant Accounting Manager	1
Budget Analyst	1
Grants Analyst	1
Tax Audit Manager	1
Senior Tax Auditor	1
Tax Auditor II	2
Tax Auditor I	3
Tax Compliance Technician	2
Administration Technician	1
Accounting Technician IV	2
Accounting Technician III	2
Accounting Technician II	2
Payroll Coordinator	1
Total	28

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	44
Community Risk Reduction Coordinator	1
Administrative Technician	1
Senior Office Assistant	1
Total	156

Fleet Maintenance

Fleet Superintendent	2*
Shops Supervisor	1
Auto Mechanic	6
Parts Clerk	2
Senior Office Assistant	1
Total	12

* Temporarily added additional FTE for training purposes as approved by ordinance by Pueblo City Council on November 28, 2022.
Additional position will be abolished in March 2023.

Housing and Citizen Services

Director of Housing and Citizen Services	1
Housing/Community Development Coordinator II	1
Community Development Specialist	1
Program Coordinator – Housing	1
Administrative Technician	1
Total	5

Human Resources

Director of Human Resources	1
Assistant Director/Human Resources	1
HR Analyst I	2
HR Analyst II	1
Senior HR Analyst	1
Office Assistant/HR Records Technician	1
Total	7

Information Technology

Director of Information Technology	1
Assistant Director of Information Technology	1
Media Systems Administrator	1
Media Systems Specialist	1
Senior GIS Administrator	1
Senior Network Administrator	1
Senior Security Administrator	1
Senior System Administrator	1
System Administrator	1
GIS Specialist I	1
Senior PC Network Technician	1
Business Systems Analyst	2
PC Network Technician	2
Communications Supervisor	1
Radio Technician / Radio Technician II	3
Total	19

Law Department

City Attorney	1
Deputy City Attorney	1
Assistant City Attorney I	3
Assistant City Attorney II	1
Assistant City Attorney III	1
Legal Assistant	1
Legal Support Assistant	1
Total	9

Memorial Airport

Director of Aviation	1
Airport Operations/Maintenance Supervisor	1
Senior Airport Operations/Maintenance Specialist	2
Airport Operations/Maintenance Worker/Airport Operations/Maintenance Specialist	8
Administrative Technician	1
Aviation Security/Contracts Coordinator	1
Total	14

Municipal Court

Municipal Court Judge	1
Court Administrator	1
Court Marshal	1
Office Assistant/Court Technician	5
Court Technician II	1
Lead Court Technician	2
Community Service Coordinator	1
Community Service Specialist	1
Probation Case Manager	1
Total	14

Parking

Parking Enforcer	2
Total	2

Parks and Recreation

Director of Parks	1
Assistant Director of Parks and Recreation	1
Parks Manager	1
Parks Supervisor	1
Ice Arena Manager	1
Parks Maintenance Mechanic	4
Recreation Supervisor	1
Gardener	1
Parks Senior Mechanic / Welder	1
Park Caretaker II	2

Park Caretaker II-Playground Inspector	1
Park Caretaker II - Irrigation	5
Parks Area Crew Leader	2
Park Ranger	1
Program Coordinator – Aquatics	1
Program Coordinator – Forestry	1
Program Coordinator – Horticulture	1
Program Coordinator – Marketing	1
Program Coordinator - Ice Arena	1
Program Coordinator – Park Ranger	1
Program Coordinator – Sports	1
Trash Removal Coordinator	1
Administrative Technician	1
Utility Worker / Park Caretaker I	11
Equipment Operator IV	1
Office Assistant/Parks & Rec Tech	1
Senior Office Assistant	1

Total	46
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Planning & Community Development

Director of Planning & Community Development	1
Assistant Mayor/Community Investment	1
Principal Planner	1
Senior Planner	3
Planner	3
Land Use Technician	2
Transportation Planning Technician	1
MPO Manager	1
Administrative Technician	1
Office Assistant	1

Total	15
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Police

Police Chief	1
Police Deputy Chief	3
Police Captain	8
Dispatch Manager	1
Dispatch Training Coordinator	1
Police Records Manager	1
Police Sergeant	25
Police Corporal	55
Police Patrol Officer	115
Community Service Officer	6
Code Enforcement Officer	9
Emergency Services Dispatcher Supervisor	3
Emergency Services Dispatcher	24

Crime Analyst	1
Administrative Technician	2
Police Payroll Technician	2
Senior Office Assistant	8
Social Media Specialist	1
Office Assistant/Investigations Technician	1
Office Assistant/ Police Records Technician	11
Office Assistant/Police Services Technician	1
Office Assistant/Property & Evidence Technician	3
Building Custodian	1
Code Enforcement Manager	1

Total	284
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Police-Safety Tax

Police Sergeant	4
Police Patrol Officer	20

Total	24
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Public Works - Engineering

Director of Public Works	1
Deputy Director Public Works	1
Engineering Manager	1
Civil Engineer/Construction	1
Civil Engineer/Public Works	1
Associate Engineer II	2
Associate Field Engineer	3
Associate Engineer I	3
Public Works Asset Coordinator	1
Public Works Projects Coordinator	1
Survey Party Chief	1
Surveyor	1
Senior Planner	1
Construction Inspector	4
Administrative Technician	2

Total	24
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Public Works - Public Buildings

Facilities Maintenance Superintendent	1
Carpenter	2
Electrician	1
Plumber	1
HVAC Technician	2
Senior Facilities Maintenance Technician	1
Painter	2

Total	10
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Public Works - Solid Waste

Solid Waste Coordinator	1
Utility Worker/Equipment Operator I	1
Total	2

Public Works - Street Cleaning

Sweeper Operator	4
Equipment Operator II	2
Total	6

Public Works - Streets Division

Street Maintenance Supervisor	1
Area Crew Leader	2
Equipment Operator IV	6
Equipment Operator II	3
Utility Worker / Equipment Operator I	11
Streets Maintenance Mechanic	1
Total	24

Public Works - Traffic Control

Traffic Control Supervisor	1
Senior Traffic Signal Technician	2
Traffic Signal Technician	3
Traffic Signs & Marking Specialist	2
Traffic Control Utility Worker III	1
Traffic Control Utility Worker II	2
Total	11

Public Works - Transportation

Traffic Engineer	1
Civil Engineer/Transportation	1
Traffic Engineer Analyst	1
Administrative Technician	1
Total	4

Purchasing

Director of Purchasing	1
Purchasing/Contracts Administrator	1
Purchasing/Contracts Coordinator	1
Purchasing Specialist	1
Total	4

Stormwater

Director of Stormwater	1
Stormwater Engineering Manager	1
Stormwater Coordinator	1
Stormwater Utility Maintenance Supervisor	1
MS4 Permit Coordinator	1
Civil Engineer/ Drainage	2
Associate Engineer II Stormwater	1
Associate Engineer I Stormwater	2
Permit Compliance Specialist - SW	1
Inspector/Stormwater	1
Stormwater Crew Leader	1
Equipment Operator IV	3
Equipment Operator II	4
Utility Worker/Equipment Operator I	4
Administrative Technician	1
Total	25

Wastewater Administration

Director of Wastewater	1
Regulatory Compliance Specialist	1
Accountant II	1
Senior Office Assistant	1
Total	4

Wastewater-Collection

WW Collection Supervisor	1
WW Utility Worker/WW Utility Worker I/ WW Utility Worker II/WW Utility Worker III/ WW Utility Worker IV	16
Total	17

Wastewater-Engineering

Associate Engineer II WW	2
WW Data Technician II	1
WW Data Technician	1
WW Engineering Manager	1
Associate Field Engineer	1
Inspector/WW	2
Total	8

Wastewater-Treatment Plant

Assistant WWTP Superintendent	1
Administrative Technician	1
Lab Analyst II	1
Lab Analyst III	2
Pretreatment Compliance Technician	1
Laboratory Pretreatment Specialist	2
Pretreatment Manager	1
Permit Compliance Specialist - WW	1
Senior WWTP Maintenance Mechanic	2
WRF Worker/WRF Worker I/WRF Worker II/WW Operator B	7
Wastewater Operator A	5
WW Instrument & Controls Specialist	1
WW Maintenance Coordinator	1
WW Maintenance Supervisor	1
WW SCADA Coordinator	1
WWTP Inventory Control Specialist	1
WWTP Lab Supervisor	1
WWTP Maintenance Mechanic	2
WWTP Superintendent	1
Total	33

GRAND TOTAL 837

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 2023 Budget with respect to the number and allocation of positions within Departments and shall become effective January 1, 2023.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 12, 2022.

Final adoption of Ordinance by City Council on December 27, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 29, 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



Deputy City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 27, 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 EMERGENCY ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN AN AMENDMENT NO. 2 TO THE SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE CRAZY FAITH STREET MINISTRY, A COLORADO NONPROFIT CORPORATION, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF AN ADDITIONAL FIFTY THOUSAND FOUR HUNDRED DOLLARS (\$50,400) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

SUMMARY:

This Ordinance approves and authorizes the Mayor to sign an Amendment No. 2 to the Subrecipient Agreement with the Crazy Faith Street Ministry, a Colorado nonprofit corporation ("CFSM") for the purpose of CFSM's operation of a temporary homeless shelter when temporary housing and shelter emergencies are declared by the Mayor (hereinafter "Project") as authorized by Section 603 of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6. Additional Funds for the Project, in the amount of \$50,400 will be paid out of Project No. CI2113, the American Rescue Plan Act.

PREVIOUS COUNCIL ACTION:

By Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI2113 and budgeted and appropriated up to \$36.7 million in funds which were expected to be distributed to the City from the American Recovery Plan Act ("ARPA") for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026).

BACKGROUND:

The City and CSFM entered into a Subrecipient Agreement dated October 24, 2022, which was approved by City Council on October 24, 2022 by Ordinance No. 10305. On November 14, 2022 *nunc pro tunc* November 1, 2022, by an emergency Ordinance No. 10326, City Council enlarged the timeframe within which the Mayor may declare temporary housing and shelter emergencies from December 1st to November 1st of each year.

The Subrecipient Agreement was subsequently amended ("Amendment No. 1") to provide: (1) that Subrecipient would be entitled to reimbursement of shelter expenses, at the rate of \$2,400 per night, from November 1, 2022 until March 31, 2023, for those dates on which the Mayor declares temporary housing and shelter emergencies; and (2) that Subrecipient would be required to use only one (1) professionally trained security officer to provide security when the overnight shelter is in operation; and

Recently, extreme cold temperatures have posed significant dangers to the health of the City's homeless persons and appropriate warming shelters are necessary to protect the health of the homeless against freezing temperatures when they are outdoors at night.

FINANCIAL IMPLICATIONS:

The attached Ordinance appropriates an additional \$50,400 to the CFSM Project which will be paid out of Project No. CI2113, the American Rescue Plan Act.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could decide not to provide additional funding to the CFSM Project.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Amendment No. 2 to Crazy Faith Subrecipient Agreement

ORDINANCE NO. 10364

AN EMERGENCY ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN AN AMENDMENT NO. 2 TO THE SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE CRAZY FAITH STREET MINISTRY, A COLORADO NONPROFIT CORPORATION, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF AN ADDITIONAL FIFTY THOUSAND FOUR HUNDRED DOLLARS (\$50,400) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Amendment No. 2 to the Subrecipient Agreement ("Amendment No. 2") dated December 27, 2022, between the City of Pueblo, a Colorado municipal corporation and the Crazy Faith Street Ministry, a Colorado nonprofit corporation ("CFSM") 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 No. 2 for and on behalf of the City and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 3.

Additional funds in the amount of \$50,400 are hereby authorized to be paid from Project No. CI2113 – American Rescue Plan Act, for the purpose of CFSM's operation of a temporary homeless shelter when temporary housing and shelter emergencies are declared by the Mayor, as described in the attached Amendment No. 2.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the attached Amendment No. 2 to implement the policies and procedures described herein.

SECTION 5.

Savings Clause: The immediate enactment of this Ordinance is necessary in order to preserve and protect the health, safety and welfare of the residents of the City. Pursuant to Sec. 3-20 of the City Charter, 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 December 27, 2022.

Final adoption of Ordinance by City Council on December 27, 2022.



President of City Council

Action by the Mayor:

☒ Approved on December 29, 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



Deputy City Clerk

AMENDMENT NO. 2 TO SUBRECIPIENT AGREEMENT

THIS AMENDMENT NO. 2 TO SUBRECIPIENT AGREEMENT ("Amendment No. 2") is entered into this 27th day of December, 2022, between the City of Pueblo, a Colorado municipal corporation (hereinafter referred to as the "City") and Crazy Faith Street Ministry, a Colorado nonprofit corporation, hereinafter referred to as the "Subrecipient." City and Subrecipient are sometimes each referred to as a "Party" and collectively "Parties."

WHEREAS, City and Subrecipient entered into that certain Subrecipient Agreement ("Agreement") dated October 24, 2022, which was approved by City Council on October 24, 2022 by Ordinance No. 10305.

WHEREAS, on November 14, 2022 *nunc pro tunc* November 1, 2022, by emergency Ordinance No. 10326, City Council enlarged the timeframe within which the Mayor may declare temporary housing and shelter emergencies from December 1st to November 1st of each year; and

WHEREAS, the Subrecipient Agreement was subsequently amended ("Amendment No. 1") to provide: (1) that Subrecipient would be entitled to reimbursement of shelter expenses, at the rate of \$2,400 per night, from November 1, 2022 until March 31, 2023, for those dates on which the Mayor declares temporary housing and shelter emergencies; and (2) that Subrecipient would be required to use only one (1) professionally trained security officer to provide security when the overnight shelter is in operation; and

WHEREAS, recently, extreme cold temperatures have posed significant dangers to the health of the City's homeless persons and appropriate warming shelters are necessary to protect the health of the homeless against freezing temperatures when they are outdoors at night.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Subrecipient agree as follows:

1. Amendment. Section 4 c of the Subrecipient Agreement shall be and hereby is amended to read as follows:

(c) The aggregate of all payments made to Subrecipient shall not exceed One Hundred Thousand Six Hundred Dollars (U.S. \$100,600). \$2,200 of grant funds shall be available to be distributed in a lump sum on November 1, 2022 for the purchase of mats, blankets, sleeping bags and COVID-19 PPE, water and other drinks and supplies. Subrecipient must provide the City with receipts itemizing how the \$2,200 in grant funds were spent. Thereafter, Subrecipient shall

provide the City with pay applications and draw packages generally corresponding to the following amounts:

Item	Amount
Reimbursement of shelter expenses up to 41 nights @ \$2,400	Up to \$98,400.00

2. Ratification of Prior Agreement. The original Subrecipient Agreement entered into by the Parties on or about October 24, 2022 is incorporated herein by this reference, is hereby ratified and shall remain in full force and effect, except as amended by Amendment No. 1 and this Amendment No. 2.

Executed at Pueblo, Colorado, the day and year first above written.

ATTEST:

CITY OF PUEBLO
A COLORADO MUNICIPAL
CORPORATION

City Clerk

By _____
Nicholas A. Gradisar, Mayor

[S E A L]

Subrecipient:

CRAZY FAITH STREET MINISTRY
A COLORADO NONPROFIT
CORPORATION

By _____
Signature

Name _____

Title _____



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 12, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Marisa Pacheco, Director Human Resources

SUBJECT: AN ORDINANCE AMENDING SECTIONS 6-5-16 AND 6-5-18 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE CLASSIFICATION AND PAY PLAN FOR FISCAL YEAR 2023

SUMMARY:

This Ordinance amends the current classification and pay plan to reflect 2023 wages for General Service, Fire, Police, Management, Appointed and unclassified part-time employees to include the increase in the minimum wage for unclassified part-time employees due to the State minimum wage increase, effective January 1, 2023.

PREVIOUS COUNCIL ACTION:

On December 27, 2021, Ordinance No. 10092 was approved by City Council. This Ordinance provided the classification and pay plan for fiscal year 2022.

BACKGROUND:

Section 8-8 of the City Charter titled Pay Schedule requires that the Personnel (Human Resources) Director provide a uniformed schedule of pay for the classified service, approved by the Mayor, and submitted to City Council. The 2023 wages have been determined by Collective Bargaining Agreements between the City of Pueblo and the Pueblo Association of Government Employees (General Service), International Association of Firefighters Local #3 (Fire) and International Brotherhood of Police Officers #537 (Police) and are reflected within the Pay Schedule.

The following wage increases will take effect January 1, 2023, by employee group, if this ordinance is approved:

Fire – International Association of Firefighter Local #3 – 8.5% increase for all steps of all ranks. Step increases within the range based on seniority will occur in 2023 as scheduled.

Police - International Brotherhood of Police Officers #537 (Police) – 7% increase for all steps of all ranks. Step increases within the range based on seniority will occur in 2023 as scheduled.

General Service – Pueblo Association of Government Employees – 6.5% increase for all steps of all classifications with the exception of specific classifications negotiated separately. Step increases within the range based on seniority will occur in 2023 as scheduled.

Management and Appointed - 7 % increase for all merit steps and ranges, in general, for management and appointed positions. Any additional merit increases determined by Mayor.

Unclassified Temporary and Seasonal Staff - Section 6-5-18 sets forth the rate of pay of unclassified part-time employees of the City and is updated to reflect the change in pay rate for 2023. The City of Pueblo follows Federal minimum wage guidelines and/or the State of Colorado minimum wage, whichever is greater. The Colorado Minimum Wage is scheduled to increase from \$12.56 per hour to \$13.65 per hour effective January 1, 2023.

FINANCIAL IMPLICATIONS:

The salary schedules and related wage increases in this Ordinance were considered in the 2023 Budget and were approved by City Council on November 28, 2022.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

There are no alternatives to this Ordinance. Section 8-8 of the City Charter requires that the Personnel (Human Resources) Director provide a uniformed schedule of pay approved by the Mayor and City Council and must comply with applicable minimum wage laws. The uniformed schedule of pay must be posted for all current and future City employees to view and is a public record.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10365

AN ORDINANCE AMENDING SECTIONS 6-5-16 AND 6-5-18 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE CLASSIFICATION AND PAY PLAN FOR FISCAL YEAR 2023

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscore indicates matter being added)

SECTION 1.

Section 6-5-16 of Chapter 5, of Title VI, of the Pueblo Municipal Code is hereby repealed in its entirety and re-enacted as follows:

6-5-16. Schedule, classification, work week and monthly salary.

The following shall constitute:

- A. The classification and pay range for all bargaining unit employees of the City effective January 1, 2023;
- B. The classification and pay range for all non-bargaining unit employees of the City effective January 1, 2023;
- C. The pay range for all unclassified employees of the City effective January 1, 2023.

[CITY OF PUEBLO SALARY SCHEDULE MONTHLY SALARY SCHEDULE - GENERAL SERVICE (NON-EXEMPT) 2022

CLASS TITLE	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
(A) GENERAL SERVICE										
Accountant I	5361.08	5493.01	5754.22	6018.02	6147.31	6215.25	6296.20	6378.48	6459.45	6659.70
Accounting Technician II	2993.70	3053.59	3206.69	3389.11	3446.36	3483.63	3528.90	3575.51	3620.78	3746.30
Accounting Technician III	3077.71	3153.62	3304.14	3457.37	3530.64	3634.22	3718.40	3816.87	3915.31	4045.52
Accounting Technician IV	3409.86	3496.06	3664.54	3838.25	3921.84	4032.18	4085.43	4141.35	4197.25	4369.24
Administrative Technician	3366.78	3449.35	3618.57	3786.42	3871.66	3980.51	4033.50	4086.48	4140.79	4445.93
Airport Ops/Maintenance Specialist	3697.21	3795.10	3895.95	3999.80	4106.79	4216.97	4330.46	4447.36	4567.76	4723.53
Airport Ops/Maintenance Worker	3122.56	3203.21	3282.58	3442.67	3598.71	3678.07	3718.41	3766.88	3817.96	3898.14
Area Crew Leader	4206.56	4314.95	4533.05	4752.46	4859.56	4914.43	4983.62	5050.26	5118.17	5287.02
Associate Engineer I	3992.37	4095.53	4299.27	4505.63	4607.51	4659.75	4723.75	4787.73	4851.74	5011.43
Associate Engineer II	4326.71	4436.42	4661.07	4887.00	4998.02	5127.06	5200.05	5270.37	5344.71	5515.26
Associate Engineer II - SW	4326.71	4436.42	4661.07	4887.00	4998.02	5127.06	5200.05	5270.37	5344.71	5515.26
Associate Engineer II - WW	4326.71	4436.42	4661.07	4887.00	4998.02	5127.06	5200.05	5270.37	5344.71	5515.26
Associate Field Engineer	4273.17	4384.16	4604.89	4826.93	4939.23	4992.79	5063.32	5132.50	5200.46	5373.15
Auto Mechanic	3825.18	3925.77	4121.66	4314.95	4414.21	4462.52	4523.91	4585.30	4645.39	4800.77
Aviation Operations Technician	3310.62	3391.57	3557.46	3722.02	3805.61	3912.32	3964.27	4016.21	4069.44	4369.24
Building Custodian	2417.13	2496.59	2576.07	2655.58	2735.06	2814.55	2894.04	2973.50	3052.98	3174.80
Business Systems Analyst	4347.74	4509.49	4671.19	4832.89	4994.61	5156.33	5318.06	5479.78	5641.49	5834.96
Carpenter	4108.61	4215.69	4428.57	4638.84	4745.96	4799.50	4866.09	4932.72	4998.02	5162.50
Civil Service Analyst	3992.37	4095.53	4299.27	4505.63	4607.51	4659.75	4723.75	4787.73	4851.74	5011.43
Civil Service Technician	2993.70	3053.59	3206.69	3389.11	3446.36	3483.63	3528.90	3575.51	3620.78	3746.30
Code Enforcement Officer	3421.62	3509.14	3678.91	3852.60	3938.81	3981.91	4035.45	4089.00	4142.54	4280.07

Community Risk Reduction Coordinator	3771.63	3868.74	4060.30	4254.88	4350.38	4397.28	4459.91	4517.64	4580.07	4730.76
Community Service Coordinator	3825.19	3925.77	4121.66	4314.95	4414.21	4462.52	4523.91	4585.30	4645.39	4800.77
Community Service Officer	3771.63	3868.74	4060.30	4254.88	4350.38	4397.28	4459.91	4517.64	4580.07	4730.76
Community Service Specialist	3077.71	3153.62	3304.14	3457.37	3530.64	3634.22	3718.40	3816.87	3915.31	4045.52
Construction Inspector	3992.37	4095.53	4299.27	4505.63	4607.51	4659.75	4723.75	4787.73	4851.74	5011.43
Court Marshal	4108.61	4215.69	4428.57	4638.84	4745.96	4799.50	4866.09	4932.72	4998.02	5141.33
Court Technician	3035.71	3098.32	3255.42	3442.07	3512.84	3557.87	3623.65	3685.61	3757.47	3885.32
Dispatch Training Coordinator	3868.16	3992.82	4117.47	4242.16	4366.84	4491.50	4616.19	4740.87	4865.52	5021.95
Electrician	4108.61	4215.69	4428.57	4638.84	4745.96	4799.50	4866.09	4932.72	4998.02	5162.50
Emergency Services Dispatch Supervisor	4491.25	4633.36	4775.46	4917.54	5059.64	5201.74	5343.84	5485.92	5628.03	5801.87
Emergency Services Dispatcher	3550.70	3675.35	3800.01	3924.70	4049.38	4174.04	4298.72	4423.40	4548.06	4704.48
Equipment Operator I	3122.56	3199.60	3355.04	3506.53	3583.59	3622.75	3669.80	3719.40	3766.41	3894.49
Equipment Operator II	3291.03	3372.01	3536.55	3701.12	3783.41	3822.58	3873.52	3925.77	3977.99	4113.11
Equipment Operator IV	3761.11	3855.68	4047.51	4239.36	4335.25	4383.21	4440.50	4503.09	4561.73	4713.08
Fire Support Technician	2993.70	3053.59	3206.69	3389.11	3446.36	3483.63	3528.90	3575.51	3620.78	3746.30
Gardener	3455.57	3543.08	3715.49	3890.48	3977.99	4036.85	4091.98	4147.12	4200.91	4340.84
GIS Specialist I	4273.17	4384.16	4604.89	4826.93	4939.23	4992.79	5063.32	5132.50	5200.46	5373.15
Housing/Comm. Dev. Coordinator II	4284.25	4395.28	4616.00	4838.00	4950.32	5001.27	5074.39	5144.92	5211.55	5385.36
HR Records Technician	2993.70	3053.59	3206.69	3389.11	3446.36	3483.63	3528.90	3575.51	3620.78	3746.30
HVAC Technician	4108.61	4215.69	4428.57	4638.84	4745.96	4799.50	4866.09	4932.72	4998.02	5162.50
Inspector/Stormwater	3992.37	4095.53	4299.27	4505.63	4607.51	4659.75	4723.75	4787.73	4851.74	5011.43
Inspector/Streets	3992.37	4095.53	4299.27	4505.63	4607.51	4659.75	4723.75	4787.73	4851.74	5011.43
Inspector /WW	3992.37	4095.53	4299.27	4505.63	4607.51	4659.75	4723.75	4787.73	4851.74	5011.43
Lab Analyst	4206.56	4314.95	4533.05	4752.46	4859.56	4914.43	4983.62	5050.26	5118.17	5287.02
Lab Analyst II	4461.22	4577.46	4808.64	5043.73	5159.95	5218.70	5289.26	5363.71	5436.85	5614.28
Lab Analyst III	4956.21	5088.36	5350.65	5613.16	5742.68	5810.36	5891.35	5973.61	6054.57	6248.94
Lab Pretreatment Specialist	4206.56	4314.95	4533.05	4752.46	4859.56	4914.43	4983.62	5050.26	5118.17	5287.02
Land Use Technician	3825.19	3925.77	4121.66	4314.95	4414.21	4462.52	4523.90	4585.30	4645.39	4800.77
Law Department Technician	2993.70	3053.59	3206.69	3389.11	3446.36	3483.63	3528.90	3575.51	3620.78	3746.30
Lead Code Enforcement Officer	3771.63	3868.74	4060.30	4254.88	4350.38	4397.28	4459.91	4517.64	4580.07	4730.76
Lead Court Technician	3366.78	3449.35	3618.57	3786.42	3871.66	3980.51	4033.50	4086.48	4140.79	4445.93
Legal Support Assistant	3366.78	3449.35	3618.57	3786.42	3871.66	3980.51	4033.50	4086.48	4140.79	4445.93
Licensing Coordinator	3825.19	3925.77	4121.66	4314.95	4414.21	4462.52	4523.90	4585.30	4645.39	4800.77
Media Systems Administrator	4347.74	4509.49	4671.19	4832.89	4994.61	5156.33	5318.06	5479.78	5641.49	5834.96
Municipal Records Tech/Coordinator	4273.17	4384.16	4604.89	4826.93	4939.23	4992.79	5063.32	5132.50	5200.46	5373.15
Office Assistant	2781.99	2847.24	2981.69	3117.50	3182.73	3217.36	3259.96	3299.91	3342.50	3457.28
Painter	4108.61	4215.69	4428.57	4638.84	4745.96	4799.50	4866.09	4932.72	4998.02	5162.50
Parks Area Crew Leader	4206.56	4314.95	4533.05	4752.46	4859.56	4914.43	4983.62	5050.26	5118.17	5287.02
Park Caretaker I	3122.56	3199.60	3355.04	3506.53	3583.59	3622.75	3669.80	3719.40	3766.41	3894.49
Park Caretaker II	3291.03	3372.01	3536.55	3701.12	3783.41	3822.58	3873.52	3925.77	3977.99	4113.11
Park Caretaker II - Irrigation	3455.57	3543.08	3715.81	3890.48	3977.99	4036.85	4091.98	4147.10	4200.91	4340.84
Park Caretaker II - Playground	3455.57	3543.08	3715.81	3890.48	3977.99	4036.85	4091.98	4147.10	4200.91	4340.84
Park Ranger	3421.62	3509.14	3678.91	3852.60	3938.81	3981.91	4035.45	4089.00	4142.54	4280.07
Parking Enforcer	3027.21	3101.63	3249.22	3399.44	3471.27	3514.35	3556.16	3601.87	3647.60	3773.93
Parks & Rec Technician	2993.70	3053.59	3206.69	3389.11	3446.36	3483.63	3528.90	3575.51	3620.78	3746.30
Parks Maintenance Mechanic	3697.21	3789.94	3977.99	4166.09	4260.09	4307.13	4363.31	4424.65	4482.13	4631.15
Parks Senior Mechanic/Welder	4108.61	4215.69	4428.57	4638.84	4745.96	4799.50	4866.09	4932.72	4998.02	5162.50
Parts Clerk	3027.21	3101.63	3249.22	3399.44	3471.27	3514.35	3556.16	3609.45	3692.57	3807.46
Pavement Management Technician	4206.56	4314.95	4533.05	4752.46	4859.56	4914.43	4983.62	5050.26	5118.17	5287.02
Payroll Coordinator	3992.37	4095.53	4299.27	4505.63	4607.51	4659.75	4723.75	4787.73	4851.74	5011.43

Payroll Coordinator	3992.37	4095.53	4299.27	4505.63	4607.51	4659.75	4723.75	4787.73	4851.74	5011.43
PC Network Technician	3619.32	3732.56	3845.78	3959.02	4072.25	4185.49	4298.70	4411.96	4525.20	4670.17
PD Investigations Technician	3035.71	3098.32	3255.42	3442.07	3512.84	3557.87	3623.65	3685.61	3757.47	3885.32
PD Records Technician	3035.71	3098.32	3255.42	3442.07	3512.84	3557.87	3623.65	3685.61	3757.47	3885.32
Permit Compliance Specialist - SW	4956.21	5088.36	5350.64	5613.16	5742.69	5810.36	5891.35	5973.61	6054.57	6248.94
Permit Compliance Specialist - WW	4956.21	5088.36	5350.64	5613.16	5742.69	5810.36	5891.35	5973.61	6054.57	6248.94
Planner	4273.17	4384.16	4604.89	4826.93	4939.23	4992.79	5063.32	5132.50	5200.46	5373.15
Plumber	4108.61	4215.69	4428.57	4638.84	4745.96	4799.50	4866.09	4932.72	4998.02	5162.50
Police Payroll Technician	3366.78	3449.35	3618.57	3786.42	3871.66	3980.51	4033.50	4086.48	4140.79	4445.93
Police Services Technician	2993.70	3053.59	3206.69	3389.11	3446.36	3483.63	3528.90	3575.51	3620.78	3746.30
Probation Case Manager	4273.17	4384.16	4614.03	4826.93	4939.23	4992.79	5063.32	5132.50	5200.46	5373.15
Program Coordinator - Aquatics	3825.19	3925.77	4121.66	4314.95	4414.21	4462.52	4523.91	4585.30	4645.39	4800.77
Program Coordinator - Forestry	3825.19	3925.77	4121.66	4314.95	4414.21	4462.52	4523.91	4585.30	4645.39	4800.77
Program Coordinator - Horticulture	3825.19	3925.77	4121.66	4314.95	4414.21	4462.52	4523.91	4585.30	4645.39	4800.77
Program Coordinator - Housing	3771.63	3868.74	4060.30	4254.88	4350.38	4397.28	4459.91	4517.64	4580.07	4730.76
Program Coordinator - Ice Arena	3825.19	3925.77	4121.66	4314.95	4414.21	4462.52	4523.91	4585.30	4645.39	4800.77
Program Coordinator - Marketing	3825.19	3925.77	4121.66	4314.95	4414.21	4462.52	4523.91	4585.30	4645.39	4800.77
Program Coordinator - Park Ranger	3825.19	3925.77	4121.66	4314.95	4414.21	4462.52	4523.91	4585.30	4645.39	4800.77
Property/Evidence Technician	3035.71	3098.32	3255.42	3442.07	3512.84	3557.87	3623.65	3685.61	3757.47	3885.32
Purchasing/Contract Coordinator	4273.17	4384.16	4604.89	4826.93	4939.23	4992.79	5063.32	5132.50	5200.46	5373.15
Purchasing Specialist	3366.78	3449.35	3618.57	3786.42	3871.66	3980.51	4033.50	4086.48	4140.79	4445.93
Public Works Asset Coordinator	4273.17	4384.16	4604.89	4826.93	4939.23	4992.79	5063.32	5132.50	5200.46	5373.15
Public Works Projects Coordinator	5129.68	5266.45	5537.92	5809.62	5943.68	6013.72	6097.55	6182.68	6266.49	6467.65
Radio Technician	3455.57	3543.08	3715.49	3890.48	3977.99	4036.85	4091.98	4147.12	4200.91	4340.84
Radio Technician II	3973.86	4132.00	4290.15	4448.29	4606.45	4764.55	4922.69	5080.87	5239.00	5428.86
Social Media Specialist	4347.74	4509.49	4671.19	4832.89	4994.61	5156.33	5318.06	5479.78	5641.49	5834.96
Solid Waste Coordinator	4108.61	4215.65	4428.56	4638.85	4745.95	4799.50	4866.10	4932.72	4998.02	5162.50
Sr. Airport Ops/Main. Specialist	4206.56	4319.75	4436.32	4556.40	4680.07	4807.46	4938.67	5073.81	5213.01	5388.13
Sr. Facilities Maintenance Technician	4108.61	4215.69	4428.57	4638.84	4745.96	4799.50	4866.09	4932.72	4998.02	5162.50
Sr. Office Assistant	3077.71	3153.62	3304.14	3457.37	3530.64	3634.22	3718.40	3816.87	3915.31	4045.52
Sr. PC Network Technician	4273.17	4384.16	4604.89	4826.93	4939.23	4992.79	5063.32	5132.50	5200.46	5373.15
Sr. Planner	4956.21	5088.36	5350.65	5613.16	5742.68	5810.36	5891.35	5973.61	6054.57	6248.94
Sr. Traffic Signal Technician	4108.61	4215.69	4428.57	4638.84	4745.96	4799.50	4866.09	4932.72	4998.02	5162.50
Sr. WWTP Maintenance Mechanic	4108.61	4215.69	4428.57	4638.84	4745.96	4799.50	4866.09	4932.72	4998.02	5162.50
Stormwater Crew Leader	4206.56	4314.95	4533.05	4752.46	4859.56	4914.43	4983.62	5050.26	5118.17	5287.02
Streets Maintenance Mechanic	3697.21	3789.94	3977.99	4166.09	4260.09	4307.13	4363.31	4424.65	4482.13	4631.15
Survey Party Chief	4108.61	4215.69	4428.57	4638.84	4745.96	4799.50	4866.09	4932.72	4998.02	5162.50
Survey Party Chief LS	4587.92	4697.62	4922.26	5148.19	5259.23	5315.37	5387.18	5456.42	5529.59	5701.73
Surveyor	3485.63	3573.12	3748.13	3923.15	4010.64	4055.03	4108.61	4166.09	4219.62	4361.07
Sweeper Operator	3596.64	3688.06	3868.30	4051.12	4141.24	4186.96	4245.74	4300.60	4356.76	4503.96
Systems Administrator	4347.74	4509.49	4671.19	4832.89	4994.61	5156.33	5318.06	5479.78	5641.49	5834.96
Tax Auditor	4273.17	4384.16	4604.89	4826.93	4939.23	4992.79	5063.32	5132.50	5200.46	5373.15
Tax Auditor II	5361.08	5493.01	5754.22	6018.02	6147.31	6215.25	6296.20	6378.48	6459.45	6659.70
Tax Compliance Technician	3619.32	3732.56	3845.78	3959.02	4072.25	4185.49	4298.70	4411.96	4525.20	4670.17
Traffic Control Utility Worker II	3291.03	3372.01	3536.55	3701.12	3783.41	3822.58	3873.52	3925.77	3977.99	4113.11
Traffic Control Utility Worker III	3825.19	3925.77	4121.66	4314.95	4414.21	4462.52	4523.91	4585.30	4645.39	4800.77
Traffic Engineering Analyst	3992.37	4095.53	4299.27	4505.63	4607.51	4659.75	4723.75	4787.73	4851.74	5011.43
Traffic Signal Technician	3825.19	3925.77	4121.66	4314.95	4414.21	4462.52	4523.91	4585.30	4645.39	4800.77
Traffic Signs/Mrkg. Specialist	3825.19	3925.77	4121.66	4314.95	4414.21	4462.52	4523.91	4585.30	4645.39	4800.77
Transportation Planning Technician	3409.86	3496.06	3664.54	3838.25	3921.84	3964.94	4017.19	4072.03	4126.87	4369.24
Trash Removal Coordinator	4206.56	4314.95	4533.05	4752.46	4859.56	4914.43	4983.62	5050.26	5118.17	5287.02
Utility Worker	3021.98	3071.61	3122.56	3199.60	3355.04	3506.53	3583.59	3622.75	3669.80	3797.77
Utility Worker III	3992.37	4095.53	4299.27	4505.63	4607.51	4659.75	4723.75	4787.73	4851.74	5011.43

Water Reclamation Worker	3021.98	3071.61	3122.56	3199.60	3355.04	3506.53	3583.59	3622.75	3669.80	3797.77
Water Reclamation Worker I	3291.03	3372.01	3536.55	3701.12	3783.41	3822.58	3873.52	3925.77	3977.99	4113.11
Water Reclamation Worker II	3409.86	3496.06	3664.54	3838.25	3921.84	3964.94	4017.19	4072.03	4126.87	4264.17
WW Data Technician	3992.37	4095.53	4299.27	4505.63	4607.51	4659.75	4723.75	4787.73	4851.74	5011.43
WW Data Technician II	4326.71	4436.42	4661.07	4887.00	4998.02	5127.06	5200.05	5270.37	5344.71	5515.26
WW Electrical Specialist	4172.10	4469.66	4492.06	4702.34	4809.45	4862.99	4929.59	4996.21	5061.51	5225.99
WW Instrument/Control Specialist	4108.61	4215.69	4428.57	4638.84	4745.96	4799.50	4866.09	4932.72	4998.02	5162.50
WW Inventory/Control Specialist	4108.61	4215.69	4428.57	4638.84	4745.96	4799.50	4866.09	4932.72	4998.02	5162.50
WW Maintenance Coordinator	4347.74	4509.49	4671.19	4779.98	4994.61	5156.33	5318.06	5479.78	5641.49	5834.96
WW Operator A	4864.43	4991.42	5054.91	5245.39	5372.37	5499.36	5626.34	5753.33	5880.31	6037.09
WW Operator B	3711.34	3808.23	3999.04	4190.96	4286.29	4334.58	4394.02	4454.79	4515.23	4666.82
WW SCADA Coordinator	4956.21	5088.36	5350.65	5613.16	5742.68	5810.36	5891.35	5973.61	6054.57	6248.94
WW Utility Worker	3021.98	3071.61	3122.56	3199.60	3355.04	3506.53	3583.59	3622.75	3669.80	3797.77
WW Utility Worker I	3278.68	3359.59	3522.79	3681.86	3762.77	3803.88	3853.28	3905.37	3954.74	4089.22
WW Utility Worker II	3488.50	3574.33	3748.74	3959.78	4010.41	4051.94	4105.94	4161.31	4216.67	4359.86
WW Utility Worker III	3956.01	4055.24	4256.45	4457.71	4558.29	4608.63	4668.74	4734.37	4795.88	4955.33
WW Utility Worker IV	4271.84	4382.22	4600.22	4821.02	4930.03	4985.94	5054.42	5122.88	5191.36	5362.23
WWTP Maintenance Mechanic	3697.21	3789.94	3977.99	4166.09	4260.09	4307.13	4363.31	4424.65	4482.13	4631.15

CITY OF PUEBLO SALARY SCHEDULE
MONTHLY SALARY SCHEDULE -FIRE(NON-EXEMPT)
2022

CLASS TITLE	Entrance	Step 2	Step 3	Step 4		
(A) FIRE						
Assistant Fire Chief *	7767.44	7767.44	7767.44	9325.33		
Emergency Medical Officer *	5723.75	5723.75	5723.75	6838.58		
Fire Captain * ¹	6547.18	6547.18	6547.18	8081.96		
Fire Engineer * ²	5619.06	5619.06	5619.06	6652.07		
Fire Inspector	5994.99	5994.99	5994.99	6962.92		
Firefighter * ³	4588.11	4967.73	5015.82	5163.07	5262.19	6216.89
* Denotes a 56-Hour Work Week.						
¹ Captain (Administration) shall constitute an assignment for Captain and shall have assigned duties primarily relating to administrative functions including training and EMS Coordination. Captain (Administration) shall be a Group A Firefighter. The monthly base pay of the Captain (Administration) shall be the monthly base pay of Captain in the same grade who is a Group B Firefighter plus an additional \$550.						
² Fire Engineers who possess and maintain an EMT-I certification or higher with the City shall be paid a monthly stipend of one percent (1%) of their monthly base pay in accordance with the City's usual and customary payroll practices. Fire Engineers hired on or after January 1, 2018 who are required as a condition of their employment as Fire Engineers with the City to possess and maintain an EMT-I Certification or higher pursuant to Section 49.2 of the collective bargaining agreement shall also be eligible for and paid said monthly stipend.						
³ Firefighters assigned to Focus Response Unit (FRU) shall be a Group A Firefighter. They shall be allowed to work OT within the FRU classification when approved by the Chief or his/her designee.						

CITY OF PUEBLO SALARY SCHEDULE
MONTHLY SALARY SCHEDULE -Police (NON-EXEMPT)

2022

CLASS TITLE	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
(A) POLICE										
Police Corporal	6543.82	6543.82	6543.82	6639.73	6639.73	6737.12				
Police Patrol Officer	4060.58	4990.90	5286.15	5736.49	5914.23	6006.08	6094.97	6186.87	6274.22	6448.40
Police Sergeant	7512.60	7586.20	7658.14	7733.23	7842.75					

CITY OF PUEBLO SALARY SCHEDULE
2022 MONTHLY SALARY SCHEDULE - CLASS B

<i>CLASS TITLE</i>	<i>BASE SALARY</i>	<i>MERIT PAY RANGES GRANTED UNDER SECTION 6-5-1(B)</i>					
(B) ADMINISTRATIVE							
Accountant II	6312.15	6523.98	6773.11	7001.40	7229.64	7465.34	7710.02
Accounting Manager	7619.34	7847.89	8083.34	8325.78	8575.58	8832.80	9097.88
Administrative Assistant	4872.31	5037.93	5233.36	5412.36	5591.38	5776.39	5965.83
Airport Ops/Maintenance Supervisor	5521.49	5687.12	5857.74	6033.46	6214.47	6400.90	6592.93
Assistant Accounting Manager	6704.52	6931.25	7195.30	7439.99	7683.17	7933.77	8193.33
Assistant Director/Human Resources	7140.31	7381.78	7662.99	7923.58	8182.58	8449.46	8725.89
Assistant Director/Info Technology	6312.15	6523.98	6773.11	7001.40	7229.64	7465.34	7710.02
Assistant Director/Parks & Recreation	8266.90	8471.65	8681.56	8962.75	9318.21	9687.90	10086.37
Assistant WWTP Superintendent	6704.52	6931.25	7195.30	7439.99	7683.17	7933.77	8193.33
Budget Analyst	6312.15	6523.98	6773.11	7001.40	7229.64	7465.34	7710.02
Civil Engineer Construction	7098.33	7337.07	7620.47	7877.09	8135.17	8400.72	8675.23
Civil Engineer Drainage	6312.15	6505.92	6853.65	7201.37	7549.09	7896.81	8245.39
Civil Engineer Public Works	6312.15	6505.92	6853.65	7201.37	7549.09	7896.81	8245.39
Civil Engineer Transportation	6312.15	6505.92	6853.65	7201.37	7549.09	7896.81	8245.39
Civil Service Administrator	8114.08	8391.56	8716.76	9013.68	9310.49	9617.85	9935.58
Code Enforcement Manager	6312.15	6523.98	6773.11	7001.40	7229.64	7465.34	7710.02
Communications Supervisor	5050.26	5381.81	5713.38	6044.93	6376.51	6708.07	7039.62
Court Administrator	6312.15	6523.98	6773.11	7001.40	7229.64	7465.34	7710.02
Crime Analyst	4453.55	4629.00	4804.40	4979.85	5155.32	5330.75	5506.15
Deputy City Clerk	4948.62	5114.22	5309.67	5488.66	5667.69	5852.69	6042.14
Deputy Fire Chief	8538.59	8829.34	9172.84	9484.64	9798.00	10121.88	10665.41
Deputy Director Public Works	9545.00	9859.99	10195.22	10541.86	10900.29	11270.90	11696.67
Dispatch Manager	5635.54	6004.19	6372.85	6741.51	7110.16	7478.82	7847.43
Engineering Manager	8394.44	8846.37	9298.31	9750.24	10202.17	10654.10	11106.62

Facilities Maintenance Superintendent	7022.02	7260.78	7544.17	7800.80	8058.89	8324.42	8598.93
Fleet Superintendent	7022.02	7260.78	7544.17	7800.80	8058.89	8324.42	8598.93
Food Project Coordinator	4872.31	5037.93	5233.36	5412.36	5591.38	5776.39	5965.83
Administrator	6312.15	6523.98	6773.11	7001.40	7229.63	7465.34	7710.02
Grants Analyst	6018.02	6147.31	6215.25	6296.20	6378.48	6459.45	6659.70
HR Analyst I	4318.10	4549.85	4806.27	5070.12	5349.09	5643.16	5953.50
HR Analyst II	4987.40	5255.08	5551.24	5855.99	6178.20	6517.85	6876.30
Ice Arena Manager	6312.15	6523.98	6773.11	7001.40	7229.64	7465.34	7710.02
Landscape Architect	5521.49	5707.97	5924.28	6125.67	6325.59	6529.96	6744.81
Legal Assistant	4291.84	4432.21	4572.88	4713.37	4867.78	5022.53	5177.12
MPO Manager	6704.52	6931.25	7195.30	7439.99	7683.17	7933.77	8193.33
MS4 Permit Coordinator	5521.49	5707.97	5924.28	6125.67	6325.59	6529.96	6744.81
Parks Manager	6312.15	6523.98	6773.11	7001.40	7229.64	7465.34	7710.02
Parks Supervisor	4948.62	5114.22	5309.67	5488.66	5667.69	5852.69	6042.14
Police Captain	7687.80	7951.51	8259.13	8541.68	8824.19	9113.03	9415.97
Police Deputy Chief	8810.00	9110.04	9464.43	9786.18	10109.47	10443.61	10788.70
Police Records Manager	4981.43	5150.04	5345.48	5525.98	5706.50	5891.45	6083.92
Pretreatment Manager	6704.52	6931.25	7195.30	7439.99	7683.17	7933.77	8193.33
Principal Planner	6312.15	6523.98	6773.11	7001.40	7229.64	7465.34	7710.02
Purchasing Contracts Administrator	4981.43	5150.04	5345.48	5526.47	5706.50	5891.45	6083.92
Recreation Supervisor	4948.62	5114.22	5309.67	5488.66	5667.69	5852.69	6042.14
Regulatory Compliance Specialist	7098.33	7337.07	7620.47	7877.09	8135.17	8400.72	8675.23
Shops Supervisor	5639.36	5828.80	6052.58	6255.48	6459.87	6670.19	6887.99
Sr. Business Systems Analyst	5050.26	5381.81	5713.38	6044.93	6376.51	6708.07	7039.62
Sr. GIS Administrator	5050.26	5381.81	5713.38	6044.93	6376.51	6708.07	7039.62
Sr. HR Analyst	5885.14	6200.99	6550.46	6910.07	7290.27	7691.07	8114.03
Sr. Network Administrator	5050.26	5381.81	5713.38	6044.93	6376.51	6708.07	7039.62
Sr. Security Administrator	5050.26	5381.81	5713.38	6044.93	6376.51	6708.07	7039.62
Sr. System Administrator	5050.26	5381.81	5713.38	6044.93	6376.51	6708.07	7039.62
Stormwater Coordinator	7098.33	7337.07	7620.47	7877.09	8135.17	8400.72	8675.23
Stormwater Utility Maint. Supervisor	5521.49	5707.97	5924.28	6125.67	6325.59	6529.96	6744.81
Streets Maintenance Supervisor	5521.49	5707.97	5924.28	6125.67	6325.59	6529.96	6744.81
Tax Audit Manager	7619.34	7847.89	8083.35	8325.79	8575.58	8832.80	9097.88
Traffic Control Supervisor	5521.49	5707.97	5924.28	6125.67	6325.59	6529.96	6744.81
Traffic Engineer	7679.14	7941.79	8204.45	8467.10	8729.75	8992.41	9255.06
WW Collections Supervisor	5521.49	5707.97	5924.28	6125.67	6325.59	6529.96	6744.81
WW Engineering Manager	8364.71	8646.97	8980.49	9283.19	9587.44	9901.88	10226.55
WWTP Lab Supervisor	6704.52	6931.25	7195.30	7439.99	7683.17	7933.77	8193.33
WWTP Superintendent	7814.44	8078.46	8388.79	8672.24	8955.70	9248.12	9552.44

CITY OF PUEBLO SALARY SCHEDULE
MONTHLY SALARY SCHEDULE - APPOINTED
2022

<i>CLASS TITLE</i>	<i>BASE SALARY</i>	<i>MERIT PAY RANGES GRANTED UNDER</i>
(C) APPOINTED		
Assistant City Attorney I	5531.79	6914.75
Assistant City Attorney II	6914.75	7759.42
Assistant City Attorney III	7759.50	9496.17
Assistant Mayor/Comm Investment	7444.26	9587.33
Assistant Mayor/Development Servi	7444.26	9587.33
City Attorney	12177.30	14881.99
City Clerk	8131.85	9940.77
Chief of Staff	7262.69	9775.68
Deputy City Attorney	10446.67	11696.67
Deputy Mayor	No monthly salary is provided with respect to appointment to the position of Deputy Mayor. All compensation received by the Department Director appointed to this position shall be continued.	
Director/Aviation	8131.85	9940.77
Director/Finance	9522.05	11637.70
Director/Housing and Citizen Service	9253.93	11311.38
Director/Human Resources	9253.93	11311.38
Director/Information Technology	9253.93	11311.38
Director/Parks & Recreation	9482.89	11590.04
Director/Planning	9253.93	11311.38
Director/Public Affairs	6008.33	7295.83
Director/Public Works	10696.87	13073.60
Director/Purchasing	8131.85	9940.77
Director/Stormwater	9253.93	11311.38
Director/Wastewater	9575.87	11703.68
Fire Chief	10421.22	12736.22
Mayor	12500.00	12500.00
Municipal Court Judge	8980.39	11580.01
Police Chief	10696.87	13207.10
Secretary to the Mayor	4291.84	5280.66
Sr. Assistant City Attorney	9496.25	10446.58

END 2022

CITY OF PUEBLO SALARY SCHEDULE
MONTHLY SALARY SCHEDULE - GENERAL SERVICE (NON-EXEMPT)
2023

CLASS TITLE	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
(A) GENERAL SERVICE										
Accountant I	5709.55	5850.05	6128.24	6409.19	6546.89	6619.24	6705.45	6793.08	6879.32	7092.58
Accounting Technician II	3188.29	3252.08	3415.13	3609.40	3670.37	3710.06	3758.28	3807.92	3856.13	3989.81
Accounting Technician III	3277.76	3358.61	3518.91	3682.10	3760.14	3870.45	3960.10	4064.96	4169.81	4308.47
Accounting Technician IV	3631.50	3723.31	3902.73	4087.74	4176.76	4294.27	4350.98	4410.53	4470.07	4653.24
Administrative Technician	3944.18	4040.92	4239.16	4435.80	4535.65	4747.95	4811.16	4961.39	5027.33	5397.81
Airport Ops/Maintenance Specialist	3937.52	4041.78	4149.18	4259.79	4373.73	4491.07	4611.94	4736.44	4864.67	5030.56
Airport Ops/Maintenance Worker	3325.52	3411.42	3495.95	3666.45	3832.62	3917.15	3960.11	4011.73	4066.13	4151.52
Area Crew Leader	4607.95	4724.79	4964.04	5204.66	5322.89	5460.32	5538.06	5612.95	5692.12	5873.76
Associate Engineer I	4562.72	4680.97	4916.04	5152.47	5272.09	5326.35	5404.23	5479.34	5550.30	5735.41
Associate Engineer II	4751.20	4874.99	5121.21	5371.57	5495.35	5557.92	5633.06	5712.35	5790.25	5979.21
Associate Engineer II - SW	4751.20	4874.99	5121.21	5371.57	5495.35	5557.92	5633.06	5712.35	5790.25	5979.21
Associate Engineer II - WW	4751.20	4874.99	5121.21	5371.57	5495.35	5557.92	5633.06	5712.35	5790.25	5979.21
Associate Field Engineer	4607.95	4724.79	4964.04	5204.66	5322.89	5460.32	5538.06	5612.95	5692.12	5873.76
Auto Mechanic	4073.81	4180.94	4389.57	4595.42	4701.13	4752.59	4817.97	4883.34	4947.34	5112.82
Aviation Operations Technician	3525.81	3612.03	3788.69	3963.95	4052.97	4166.62	4221.94	4277.27	4333.96	4653.24
Aviation Security/Contracts Coordinator	4073.82	4180.94	4389.57	4595.42	4701.13	4752.59	4817.97	4883.34	4947.34	5112.82
Building Custodian	2574.25	2658.87	2743.52	2828.19	2912.84	2997.50	3082.15	3166.77	3251.42	3381.16
Business Systems Analyst	4630.34	4802.60	4974.82	5147.03	5319.26	5491.49	5663.73	5835.97	6008.18	6214.23
Carpenter	4375.67	4489.71	4716.42	4940.37	5054.44	5111.47	5182.39	5253.35	5322.89	5498.06
Civil Service Analyst	4251.88	4361.74	4578.73	4798.49	4907.00	4962.64	5030.80	5098.94	5167.11	5337.17
Civil Service Technician	3188.29	3252.08	3415.13	3609.40	3670.37	3710.06	3758.28	3807.92	3856.13	3989.81
Code Enforcement Officer	3644.02	3737.23	3918.04	4103.02	4194.83	4240.73	4297.76	4354.78	4411.81	4558.27
Community Development Specialist	4550.92	4669.13	4904.20	5140.68	5260.28	5317.33	5392.44	5466.11	5538.49	5722.40
Community Risk Reduction Coordinator	3771.63	3868.74	4060.30	4254.88	4350.38	4397.28	4459.91	4517.64	4580.07	4730.76
Community Service Coordinator	4607.95	4724.79	4964.04	5204.66	5322.89	5460.32	5538.06	5612.95	5692.12	5873.76
Community Service Officer	4016.79	4120.21	4324.22	4531.45	4633.15	4683.10	4749.80	4811.28	4877.78	5038.26
Community Service Specialist	3277.76	3358.61	3518.91	3682.10	3760.14	3870.45	3960.10	4064.96	4169.81	4308.47
Court Marshal	4375.67	4489.71	4716.42	4940.37	5054.44	5111.47	5182.39	5253.35	5322.89	5475.52
Court Technician	3233.03	3299.71	3467.03	3665.81	3741.18	3789.13	3859.19	3925.17	4001.71	4137.87
Court Technician II	3394.68	3464.70	3640.38	3849.10	3928.24	3978.59	4052.15	4121.43	4201.79	4344.76
Dispatch Training Coordinator	4243.18	4379.92	4516.66	4653.44	4790.21	5070.45	5211.21	5351.96	5492.69	5776.24
Electrician	4375.67	4489.71	4716.42	4940.37	5054.44	5111.47	5182.39	5253.35	5322.89	5498.06
Emergency Services Dispatch Supervisor	5261.51	5427.98	5594.45	5760.90	5927.37	6260.03	6431.05	6602.03	6773.05	7074.94
Emergency Services Dispatcher	3894.94	4031.68	4168.42	4305.20	4441.97	4712.07	4852.83	4993.58	5134.30	5411.10
Equipment Operator I	3325.52	3407.58	3573.12	3734.45	3816.52	3858.23	3908.34	3961.16	4011.23	4147.63
Equipment Operator II	3504.95	3591.19	3766.42	3941.69	4069.62	4111.76	4166.56	4222.75	4278.93	4752.81
Equipment Operator IV	4005.58	4106.30	4310.59	4514.92	4686.30	4738.14	4800.07	4843.74	4906.83	5446.08

CLASS TITLE	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
(A) GENERAL SERVICE continued...										
Fire Support Technician	3188.29	3252.08	3415.13	3609.40	3670.37	3710.06	3758.28	3807.92	3856.13	3989.81
Gardener	3680.19	3773.38	3957.00	4143.36	4236.56	4299.24	4357.96	4416.69	4473.97	4623.00
GIS Specialist I	4550.92	4669.13	4904.20	5140.68	5260.28	5317.33	5392.44	5466.11	5538.49	5722.40
Housing/Comm. Dev. Coordinator II	4562.72	4680.97	4916.04	5152.47	5272.09	5326.35	5404.23	5479.34	5550.30	5735.41
HR Records Technician	3188.29	3252.08	3415.13	3609.40	3670.37	3710.06	3758.28	3807.92	3856.13	3989.81
HVAC Technician	4375.67	4489.71	4716.42	4940.37	5054.44	5111.47	5182.39	5253.35	5322.89	5498.06
Inspector/Construction	4562.72	4680.97	4916.04	5152.47	5272.09	5326.35	5404.23	5479.34	5550.30	5735.41
Inspector/Stormwater	4562.72	4680.97	4916.04	5152.47	5272.09	5326.35	5404.23	5479.34	5550.30	5735.41
Inspector/Streets	4562.72	4680.97	4916.04	5152.47	5272.09	5326.35	5404.23	5479.34	5550.30	5735.41
Inspector /Wastewater	4562.72	4680.97	4916.04	5152.47	5272.09	5326.35	5404.23	5479.34	5550.30	5735.41
Lab Analyst	4479.99	4595.42	4827.70	5061.37	5175.44	5233.87	5307.55	5378.53	5450.85	5630.67
Lab Analyst II	4751.20	4874.99	5121.21	5371.57	5495.35	5557.92	5633.06	5712.35	5790.25	5979.21
Lab Analyst III	5278.36	5419.10	5698.44	5978.01	6115.96	6188.03	6274.29	6361.89	6448.12	6655.12
Lab Pretreatment Specialist	4479.99	4595.42	4827.70	5061.37	5175.44	5233.87	5307.55	5378.53	5450.85	5630.67
Land Use Technician	4073.82	4180.94	4389.57	4595.42	4701.13	4752.59	4817.95	4883.34	4947.34	5112.82
Law Department Technician	3188.29	3252.08	3415.13	3609.40	3670.37	3710.06	3758.28	3807.92	3856.13	3989.81
Lead Code Enforcement Officer	4016.79	4120.21	4324.22	4531.45	4633.15	4683.44	4749.80	4811.28	4877.78	5038.26
Lead Court Technician	3944.18	4040.92	4239.16	4435.80	4535.65	4747.95	4811.16	4961.39	5027.33	5397.81
Legal Support Assistant	3944.18	4040.92	4239.16	4435.80	4535.65	4747.95	4811.16	4961.39	5027.33	5397.81
Licensing Coordinator	4073.82	4180.94	4389.57	4595.42	4701.13	4752.59	4817.95	4961.39	5027.33	5397.81
Marketing and Recruitment Specialist	4630.34	4802.60	4974.82	5147.03	5319.26	5491.49	5663.73	5835.97	6008.18	6214.23
Media Systems Administrator	4630.34	4802.60	4974.82	5147.03	5319.26	5491.49	5663.73	5835.97	6008.18	6214.23
Media Systems Specialist	4550.92	4669.13	4904.20	5140.68	5260.28	5317.33	5392.44	5466.11	5538.49	5722.40
Municipal Records Tech/Coordinator	4550.92	4669.13	4904.20	5140.68	5260.28	5317.33	5392.44	5466.11	5538.49	5722.40
Office Assistant	2962.82	3032.31	3175.50	3320.13	3389.60	3426.49	3471.86	3514.41	3559.77	3682.00
Painter	4375.67	4489.71	4716.42	4940.37	5054.44	5111.47	5182.39	5253.35	5322.89	5498.06
Parks Area Crew Leader	4607.95	4724.79	4964.04	5204.66	5322.89	5460.32	5538.06	5612.95	5692.12	5873.76
Park Caretaker I	3325.52	3407.58	3573.12	3734.45	3816.52	3858.23	3908.34	3961.16	4011.23	4147.63
Park Caretaker II	3504.95	3591.19	3766.42	3941.69	4069.62	4111.76	4166.56	4222.75	4278.93	4752.81
Park Caretaker II - Irrigation	3680.19	3773.38	3957.34	4143.36	4278.93	4342.24	4401.54	4460.83	4518.71	5015.95
Park Caretaker II - Playground	3680.19	3773.38	3957.34	4143.36	4278.93	4342.24	4401.54	4460.83	4518.71	5015.95
Park Ranger	3644.02	3737.23	3918.04	4103.02	4194.83	4240.73	4297.76	4354.78	4411.81	4558.27
Parking Enforcer	3223.98	3303.24	3460.42	3620.40	3696.90	3742.78	3787.31	3835.99	3884.69	4019.23
Parks & Rec Technician	3188.29	3252.08	3415.13	3609.40	3670.37	3710.06	3758.28	3807.92	3856.13	3989.81
Parks Maintenance Mechanic	4005.58	4106.30	4310.59	4514.92	4663.22	4714.80	4776.43	4843.74	4906.83	5446.08
Parks Senior Mechanic/Welder	4375.67	4489.71	4716.42	4940.37	5054.44	5111.47	5182.39	5253.35	5322.89	5910.42
Parts Clerk	3223.98	3303.24	3460.42	3620.40	3696.90	3742.78	3787.31	3844.06	3932.59	4054.95
Pavement Management Technician	4479.99	4595.42	4827.70	5061.37	5175.44	5233.87	5307.55	5378.53	5450.85	5630.67
Payroll Coordinator	4570.77	4688.87	4922.13	5158.38	5275.02	5334.84	5408.11	5481.36	5554.64	5977.63
PC Network Technician	3854.58	3975.18	4095.75	4216.35	4336.94	4457.54	4578.12	4698.74	4819.34	4973.73
PD Investigations Technician	3233.03	3299.71	3467.03	3665.81	3741.18	3789.13	3859.19	3925.17	4001.71	4137.87
PD Records Technician	3233.03	3299.71	3467.03	3665.81	3741.18	3789.13	3859.19	3925.17	4001.71	4137.87
Permit Compliance Specialist - SW	5278.37	5419.10	5698.44	5978.01	6115.96	6188.03	6274.29	6361.89	6448.12	6655.12
Permit Compliance Specialist - WW	5278.37	5419.10	5698.44	5978.01	6115.96	6188.03	6274.29	6361.89	6448.12	6655.12
Planner	4550.92	4669.13	4904.20	5140.68	5260.28	5317.33	5392.44	5466.11	5538.49	5722.40
Plumber	4375.67	4489.71	4716.42	4940.37	5054.44	5111.47	5182.39	5253.35	5322.89	5498.06

CLASS TITLE	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
(A) GENERAL SERVICE continued...										
Police Payroll Technician	3944.18	4040.92	4239.16	4435.80	4535.65	4747.95	4811.16	4961.39	5027.33	5397.81
Police Services Technician	3188.29	3252.08	3415.13	3609.40	3670.37	3710.06	3758.28	3807.92	3856.13	3989.81
Pretreatment Compliance Technician	4751.20	4874.99	5121.21	5371.57	5495.35	5557.92	5633.06	5712.35	5790.25	5979.21
Probation Case Manager	4550.92	4669.13	4913.94	5140.68	5260.28	5317.33	5392.44	5466.11	5538.49	5722.40
Program Coordinator - Aquatics	4073.82	4180.94	4389.57	4595.42	4701.13	4752.59	4817.97	4883.34	4947.34	5112.82
Program Coordinator - Forestry	4073.82	4180.94	4389.57	4595.42	4701.13	4752.59	4817.97	4883.34	4947.34	5112.82
Program Coordinator - Horticulture	4073.82	4180.94	4389.57	4595.42	4701.13	4752.59	4817.97	4883.34	4947.34	5112.82
Program Coordinator - Housing	4016.79	4120.21	4324.22	4531.45	4633.15	4683.10	4749.80	4811.28	4877.78	5038.26
Program Coordinator - Ice Arena	4073.82	4180.94	4389.57	4595.42	4701.13	4752.59	4817.97	4883.34	4947.34	5112.82
Program Coordinator - Marketing	4073.82	4180.94	4389.57	4595.42	4701.13	4752.59	4817.97	4883.34	4947.34	5112.82
Program Coordinator - Park Ranger	4073.82	4180.94	4389.57	4595.42	4701.13	4752.59	4817.97	4883.34	4947.34	5112.82
Program Coordinator - Sports	4073.82	4180.94	4389.57	4595.42	4701.13	4752.59	4817.97	4883.34	4947.34	5112.82
Property/Evidence Technician	3233.03	3299.71	3467.03	3665.81	3741.18	3789.13	3859.19	3925.17	4001.71	4137.87
Purchasing/Contract Coordinator	4550.92	4669.13	4904.20	5140.68	5260.28	5317.33	5392.44	5466.11	5538.49	5722.40
Purchasing Specialist	3585.62	3673.56	3853.78	4032.54	4123.32	4239.24	4295.68	4352.10	4409.94	4734.92
Public Works Asset Coordinator	4550.92	4669.13	4904.20	5140.68	5260.28	5317.33	5392.44	5466.11	5538.49	5722.40
Public Works Projects Coordinator	5738.26	5589.21	6192.78	6496.60	6646.52	6724.85	6818.59	6913.78	7007.50	7232.45
Radio Technician	3680.19	3773.38	3957.00	4143.36	4236.56	4299.24	4357.96	4416.69	4473.97	4623.00
Radio Technician II	4232.17	4400.58	4569.01	4737.43	4905.87	5074.24	5242.66	5411.12	5579.53	5781.74
Social Media Specialist	4630.34	4802.60	4974.82	5147.03	5319.26	5491.49	5663.73	5835.97	6008.18	6214.23
Solid Waste Coordinator	4375.67	4489.67	4716.42	4940.37	5054.44	5111.47	5182.39	5253.34	5322.90	5498.06
Sr. Airport Ops/Main. Specialist	4479.99	4600.53	4724.68	4852.56	4984.28	5119.94	5259.68	5403.61	5551.85	5738.36
Sr. Facilities Maintenance Technician	4375.67	4489.71	4716.42	4940.37	5054.44	5111.47	5182.39	5253.35	5322.89	5498.06
Sr. Office Assistant	3703.87	3795.23	3976.37	4160.78	4248.95	4528.42	4633.31	4756.01	4878.68	5213.25
Sr. PC Network Technician	4550.92	4669.13	4904.20	5140.68	5260.28	5317.33	5392.44	5466.11	5538.49	5722.40
Sr. Planner	5278.36	5419.10	5698.44	5978.01	6115.96	6188.03	6274.29	6361.89	6448.12	6655.12
Sr. Traffic Signal Technician	4375.67	4489.71	4716.42	4940.37	5054.44	5111.47	5182.39	5253.35	5322.89	5498.06
Sr. WWTP Maintenance Mechanic	4375.67	4489.71	4716.42	4940.37	5054.44	5111.47	5182.39	5253.35	5322.89	5498.06
Stormwater Crew Leader	4607.95	4724.79	4964.04	5204.66	5322.89	5460.32	5538.06	5612.95	5692.12	5873.76
Streets Maintenance Mechanic	4005.58	4106.30	4310.59	4514.92	4663.22	4714.80	4776.43	4843.74	4906.83	5446.08
Survey Party Chief	4375.67	4489.71	4716.42	4940.37	5054.44	5111.47	5182.39	5253.35	5322.89	5498.06
Survey Party Chief LS	4886.14	5002.96	5242.21	5482.82	5601.08	5660.87	5737.34	5811.08	5889.02	6072.34
Surveyor	3712.19	3805.37	3991.76	4178.16	4271.33	4318.61	4375.67	4436.88	4493.90	4644.54
Sweeper Operator	3830.43	3927.79	4119.74	4314.45	4454.53	4503.70	4566.93	4625.94	4686.35	5204.44
Systems Administrator	4630.34	4802.60	4974.82	5147.03	5319.26	5491.49	5663.73	5835.97	6008.18	6214.23
Tax Auditor	4550.92	4669.13	4904.20	5140.68	5260.28	5317.33	5392.44	5466.11	5538.49	5722.40
Tax Auditor II	5709.55	5850.05	6128.24	6409.19	6546.89	6619.24	6705.45	6793.08	6879.32	7092.58
Tax Compliance Technician	3854.58	3975.18	4095.75	4216.35	4336.94	4457.54	4578.12	4698.74	4819.34	4973.73
Traffic Control Utility Worker II	3504.95	3591.19	3766.42	3941.69	4029.33	4071.05	4125.30	4180.94	4236.56	4380.47
Traffic Control Utility Worker III	4073.82	4180.94	4389.57	4595.42	4701.13	4752.59	4817.97	4883.34	4947.34	5112.82
Traffic Engineering Analyst	4562.72	4680.97	4916.04	5152.47	5272.09	5326.35	5404.23	5479.34	5550.30	5735.41
Traffic Signal Technician	4073.82	4180.94	4389.57	4595.42	4701.13	4752.59	4817.97	4883.34	4947.34	5112.82
Traffic Signs/Mrkg. Specialist	4073.82	4180.94	4389.57	4595.42	4701.13	4752.59	4817.97	4883.34	4947.34	5112.82
Transportation Planning Technician	3631.50	3723.31	3902.73	4087.74	4176.76	4222.66	4278.30	4336.72	4395.12	4653.24
Trash Removal Coordinator	4479.99	4595.42	4827.70	5061.37	5175.44	5233.87	5307.55	5378.53	5450.85	5630.67

<u>CLASS TITLE</u>	<u>Entrance</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>	<u>Step 8</u>	<u>Step 9</u>	<u>Step 10</u>
(A) GENERAL SERVICE continued...										
<u>Utility Worker</u>	<u>3218.41</u>	<u>3271.27</u>	<u>3325.52</u>	<u>3407.58</u>	<u>3573.12</u>	<u>3734.45</u>	<u>3816.52</u>	<u>3858.23</u>	<u>3908.34</u>	<u>4044.62</u>
<u>Utility Worker III</u>	<u>4251.88</u>	<u>4361.74</u>	<u>4578.73</u>	<u>4798.49</u>	<u>4907.00</u>	<u>4962.64</u>	<u>5030.80</u>	<u>5098.94</u>	<u>5167.11</u>	<u>5337.17</u>
<u>Water Reclamation Worker</u>	<u>3218.41</u>	<u>3271.27</u>	<u>3325.52</u>	<u>3407.58</u>	<u>3573.12</u>	<u>3734.45</u>	<u>3816.52</u>	<u>3858.23</u>	<u>3908.34</u>	<u>4044.62</u>
<u>Water Reclamation Worker I</u>	<u>3504.95</u>	<u>3591.19</u>	<u>3766.42</u>	<u>3941.69</u>	<u>4029.33</u>	<u>4071.05</u>	<u>4125.30</u>	<u>4180.94</u>	<u>4236.56</u>	<u>4380.47</u>
<u>Water Reclamation Worker II</u>	<u>3631.50</u>	<u>3723.31</u>	<u>3902.73</u>	<u>4087.74</u>	<u>4176.76</u>	<u>4222.66</u>	<u>4278.30</u>	<u>4336.72</u>	<u>4395.12</u>	<u>4541.34</u>
<u>WW Data Technician</u>	<u>4251.88</u>	<u>4361.74</u>	<u>4578.73</u>	<u>4798.49</u>	<u>4907.00</u>	<u>4962.64</u>	<u>5030.80</u>	<u>5098.94</u>	<u>5167.11</u>	<u>5337.17</u>
<u>WW Data Technician II</u>	<u>4607.95</u>	<u>4724.79</u>	<u>4964.04</u>	<u>5204.66</u>	<u>5322.89</u>	<u>5460.32</u>	<u>5538.06</u>	<u>5612.95</u>	<u>5692.12</u>	<u>5873.76</u>
<u>WW Instrument/Control Specialist</u>	<u>4375.67</u>	<u>4489.71</u>	<u>4716.42</u>	<u>4940.37</u>	<u>5054.44</u>	<u>5111.47</u>	<u>5182.39</u>	<u>5253.35</u>	<u>5322.89</u>	<u>5498.06</u>
<u>WW Inventory/Control Specialist</u>	<u>4375.67</u>	<u>4489.71</u>	<u>4716.42</u>	<u>4940.37</u>	<u>5054.44</u>	<u>5111.47</u>	<u>5182.39</u>	<u>5253.35</u>	<u>5322.89</u>	<u>5498.06</u>
<u>WW Maintenance Coordinator</u>	<u>4630.34</u>	<u>4802.60</u>	<u>4974.82</u>	<u>5090.68</u>	<u>5319.26</u>	<u>5491.49</u>	<u>5663.73</u>	<u>5835.97</u>	<u>6008.18</u>	<u>6214.23</u>
<u>WW Operator A</u>	<u>5180.62</u>	<u>5315.86</u>	<u>5383.48</u>	<u>5586.34</u>	<u>5721.58</u>	<u>5856.82</u>	<u>5992.06</u>	<u>6127.30</u>	<u>6262.53</u>	<u>6429.50</u>
<u>WW Operator B</u>	<u>3952.58</u>	<u>4055.77</u>	<u>4258.98</u>	<u>4463.37</u>	<u>4564.90</u>	<u>4616.32</u>	<u>4679.63</u>	<u>4744.35</u>	<u>4808.72</u>	<u>4970.17</u>
<u>WW SCADA Coordinator</u>	<u>5278.36</u>	<u>5419.10</u>	<u>5698.44</u>	<u>5978.01</u>	<u>6115.96</u>	<u>6188.03</u>	<u>6274.29</u>	<u>6361.89</u>	<u>6448.12</u>	<u>6655.12</u>
<u>WW Utility Worker</u>	<u>3218.41</u>	<u>3271.27</u>	<u>3325.52</u>	<u>3407.58</u>	<u>3573.12</u>	<u>3734.45</u>	<u>3816.52</u>	<u>3858.23</u>	<u>3908.34</u>	<u>4044.62</u>
<u>WW Utility Worker I</u>	<u>3491.79</u>	<u>3577.96</u>	<u>3751.77</u>	<u>3921.18</u>	<u>4007.35</u>	<u>4051.14</u>	<u>4103.75</u>	<u>4159.22</u>	<u>4211.80</u>	<u>4355.01</u>
<u>WW Utility Worker II</u>	<u>3715.25</u>	<u>3806.66</u>	<u>3992.41</u>	<u>4217.16</u>	<u>4271.09</u>	<u>4315.32</u>	<u>4372.82</u>	<u>4431.80</u>	<u>4490.75</u>	<u>5037.93</u>
<u>WW Utility Worker III</u>	<u>4213.15</u>	<u>4318.83</u>	<u>4533.12</u>	<u>4747.46</u>	<u>4854.58</u>	<u>4908.19</u>	<u>4972.21</u>	<u>5042.11</u>	<u>5107.61</u>	<u>5277.43</u>
<u>WW Utility Worker IV</u>	<u>4549.51</u>	<u>4667.06</u>	<u>4899.24</u>	<u>5134.38</u>	<u>5250.48</u>	<u>5310.02</u>	<u>5382.95</u>	<u>5455.86</u>	<u>5528.80</u>	<u>5710.78</u>
<u>WWTP Maintenance Mechanic</u>	<u>3937.52</u>	<u>4036.28</u>	<u>4236.56</u>	<u>4436.88</u>	<u>4536.99</u>	<u>4587.09</u>	<u>4646.92</u>	<u>4712.25</u>	<u>4773.47</u>	<u>4932.18</u>

CITY OF PUEBLO SALARY SCHEDULE
MONTHLY SALARY SCHEDULE -FIRE(NON-EXEMPT)
2023

<u>CLASS TITLE</u>						
<u>(A) FIRE</u>						
Assistant Fire Chief *	10117.99					
Emergency Medical Officer *	7419.86					
Fire Captain * ¹	8768.92					
Fire Engineer* ²	7217.50					
Fire Inspector	7554.76					
<u>CLASS TITLE</u>	<u>Entrance</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>
Firefighter * ³	4978.10	5389.98	5442.16	5601.93	5709.48	6745.33

* Denotes a 56-Hour Work Week.

¹ Captain (Administration) shall constitute an assignment for Captain and shall have assigned duties primarily relating to administrative functions including training and EMS Coordination. Captain (Administration) shall be a Group A Firefighter. The monthly base pay of the Captain (Administration) shall be the monthly base pay of Captain in the same grade who is a Group B Firefighter plus an additional \$550.

² Fire Engineers who possess and maintain an EMT-I certification or higher with the City shall be paid a monthly stipend of one percent (1%) of their monthly base pay in accordance with the City's usual and customary payroll practices. Fire Engineers hired on or after January 1, 2018 who are required as a condition of their employment as Fire Engineers with the City to possess and maintain an EMT-I Certification or higher pursuant to Section 49.2 of the collective bargaining agreement shall also be eligible for and paid said monthly stipend.

³ Firefighters assigned to Focus Response Unit (FRU) shall be a Group B Firefighter. They shall be allowed to work OT within the FRU classification when approved by the Chief or his/her designee.

CITY OF PUEBLO SALARY SCHEDULE
MONTHLY SALARY SCHEDULE -Police (NON-EXEMPT)
2023

<u>CLASS TITLE</u>	<u>Entrance</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>	<u>Step 8</u>	<u>Step 9</u>	<u>Step 10</u>
<u>(A) POLICE</u>										
Police Corporal	7001.88	7001.88	7001.88	7104.51	7104.51	7208.72				
Police Patrol Officer	4844.82	5340.26	5656.18	6138.04	6328.22	6426.51	6521.62	6619.95	6713.42	6899.79
Police Sergeant	8038.48	8117.23	8194.21	8274.55	8391.75					

CITY OF PUEBLO SALARY SCHEDULE
MONTHLY SALARY SCHEDULE – CLASS B
2023

<i>CLASS TITLE</i>	<i>BASE SALARY</i>	<i>MERIT PAY RANGES GRANTED UNDER SECTION 6-5-1(B)</i>					
<u>(B) ADMINISTRATIVE</u>							
Accountant II	<u>6754.01</u>	<u>6980.66</u>	<u>7247.23</u>	<u>7491.50</u>	<u>7735.71</u>	<u>7987.91</u>	<u>8249.73</u>
Accounting Manager	<u>8152.69</u>	<u>8397.24</u>	<u>8649.18</u>	<u>8908.59</u>	<u>9175.87</u>	<u>9451.09</u>	<u>9734.73</u>
Administrative Assistant	<u>5213.37</u>	<u>5390.59</u>	<u>5599.69</u>	<u>5791.23</u>	<u>5982.77</u>	<u>6180.73</u>	<u>6383.44</u>
Airport Ops/Maintenance Supervisor	<u>5907.99</u>	<u>6085.22</u>	<u>6267.78</u>	<u>6455.81</u>	<u>6649.49</u>	<u>6848.96</u>	<u>7054.43</u>
Assistant Accounting Manager	<u>7173.83</u>	<u>7416.44</u>	<u>7698.97</u>	<u>7960.79</u>	<u>8220.99</u>	<u>8489.13</u>	<u>8766.86</u>
Assistant Director/Human Resources	<u>7640.13</u>	<u>7898.51</u>	<u>8199.40</u>	<u>8478.23</u>	<u>8755.36</u>	<u>9040.92</u>	<u>9336.70</u>
Assistant Director/Info Technology	<u>6754.01</u>	<u>6980.66</u>	<u>7247.23</u>	<u>7491.50</u>	<u>7735.71</u>	<u>7987.91</u>	<u>8249.73</u>
Assistant Director/Parks & Recreation	<u>8845.59</u>	<u>9064.67</u>	<u>9289.27</u>	<u>9590.15</u>	<u>9970.49</u>	<u>10366.06</u>	<u>10792.41</u>
Assistant WWTP Superintendent	<u>7173.83</u>	<u>7416.44</u>	<u>7698.97</u>	<u>7960.79</u>	<u>8220.99</u>	<u>8489.13</u>	<u>8766.87</u>
Budget Analyst	<u>6754.01</u>	<u>6980.66</u>	<u>7247.23</u>	<u>7491.50</u>	<u>7735.71</u>	<u>7987.91</u>	<u>8249.73</u>
Civil Engineer Construction	<u>7595.21</u>	<u>7850.67</u>	<u>8153.91</u>	<u>8428.49</u>	<u>8704.63</u>	<u>8988.77</u>	<u>9282.50</u>
Civil Engineer Drainage	<u>6754.01</u>	<u>6961.34</u>	<u>7333.40</u>	<u>7705.46</u>	<u>8077.53</u>	<u>8449.59</u>	<u>8822.56</u>
Civil Engineer Public Works	<u>6754.01</u>	<u>6961.34</u>	<u>7333.40</u>	<u>7705.46</u>	<u>8077.53</u>	<u>8449.59</u>	<u>8822.56</u>
Civil Engineer Transportation	<u>6754.01</u>	<u>6961.34</u>	<u>7333.40</u>	<u>7705.46</u>	<u>8077.53</u>	<u>8449.59</u>	<u>8822.56</u>
Civil Service Administrator	<u>8682.07</u>	<u>8978.97</u>	<u>9326.94</u>	<u>9644.63</u>	<u>9962.23</u>	<u>10291.10</u>	<u>10631.07</u>
Code Enforcement Manager	<u>6754.01</u>	<u>6980.66</u>	<u>7247.23</u>	<u>7491.50</u>	<u>7735.71</u>	<u>7987.91</u>	<u>8249.73</u>
Communications Supervisor	<u>5403.78</u>	<u>5758.54</u>	<u>6113.31</u>	<u>6468.08</u>	<u>6822.86</u>	<u>7177.64</u>	<u>7532.40</u>
Court Administrator	<u>6754.01</u>	<u>6980.66</u>	<u>7247.23</u>	<u>7491.50</u>	<u>7735.71</u>	<u>7987.91</u>	<u>8249.73</u>
Crime Analyst	<u>4765.30</u>	<u>4953.03</u>	<u>5140.70</u>	<u>5328.44</u>	<u>5516.19</u>	<u>5703.90</u>	<u>5891.58</u>
Deputy City Clerk	<u>5295.02</u>	<u>5472.21</u>	<u>5681.34</u>	<u>5872.87</u>	<u>6064.42</u>	<u>6262.38</u>	<u>6465.09</u>
Deputy Director Public Works	<u>9545.00</u>	<u>9859.99</u>	<u>10195.22</u>	<u>10541.86</u>	<u>10900.29</u>	<u>11270.90</u>	<u>11696.67</u>
Deputy Fire Chief	<u>9264.37</u>	<u>9579.84</u>	<u>9952.54</u>	<u>10290.83</u>	<u>10630.83</u>	<u>10982.24</u>	<u>11571.97</u>
Dispatch Manager	<u>6030.03</u>	<u>6424.48</u>	<u>6818.95</u>	<u>7213.42</u>	<u>7607.87</u>	<u>8002.34</u>	<u>8396.76</u>
Engineering Manager	<u>8982.05</u>	<u>9465.62</u>	<u>9949.19</u>	<u>10432.76</u>	<u>10916.32</u>	<u>11399.89</u>	<u>11884.09</u>
Facilities Maintenance Superintendent	<u>7513.56</u>	<u>7769.03</u>	<u>8072.26</u>	<u>8346.85</u>	<u>8623.01</u>	<u>8907.13</u>	<u>9200.85</u>
Fleet Superintendent	<u>7513.56</u>	<u>7769.03</u>	<u>8072.26</u>	<u>8346.85</u>	<u>8623.01</u>	<u>8907.13</u>	<u>9200.85</u>
Food Project Coordinator	<u>4872.31</u>	<u>5037.93</u>	<u>5233.36</u>	<u>5412.36</u>	<u>5591.38</u>	<u>5776.39</u>	<u>5965.83</u>

Grant & Resource Dev. Administrator	<u>6754.01</u>	<u>6980.66</u>	<u>7247.22</u>	<u>7491.50</u>	<u>7735.71</u>	<u>7987.91</u>	<u>8249.72</u>
Grants Analyst	<u>6439.28</u>	<u>6577.62</u>	<u>6650.32</u>	<u>6736.94</u>	<u>6824.97</u>	<u>6911.61</u>	<u>7125.88</u>
HR Analyst I	<u>4620.37</u>	<u>4868.34</u>	<u>5142.71</u>	<u>5425.03</u>	<u>5723.52</u>	<u>6038.19</u>	<u>6370.25</u>
HR Analyst II	<u>5336.52</u>	<u>5622.94</u>	<u>5939.82</u>	<u>6265.91</u>	<u>6610.67</u>	<u>6974.10</u>	<u>7357.64</u>
Ice Arena Manager	<u>6754.01</u>	<u>6980.66</u>	<u>7247.23</u>	<u>7491.50</u>	<u>7735.71</u>	<u>7987.91</u>	<u>8249.73</u>
Internal Auditor	<u>6922.86</u>	<u>7155.18</u>	<u>7428.41</u>	<u>7678.78</u>	<u>7929.11</u>	<u>8187.61</u>	<u>8455.96</u>
Landscape Architect	<u>5907.99</u>	<u>6107.53</u>	<u>6338.98</u>	<u>6554.47</u>	<u>6768.39</u>	<u>6987.06</u>	<u>7216.95</u>
Legal Assistant	<u>4592.27</u>	<u>4742.46</u>	<u>4892.98</u>	<u>5043.31</u>	<u>5208.52</u>	<u>5374.11</u>	<u>5539.52</u>
MPO Manager	<u>7173.83</u>	<u>7416.44</u>	<u>7698.97</u>	<u>7960.79</u>	<u>8220.99</u>	<u>8489.13</u>	<u>8766.87</u>
MS4 Permit Coordinator	<u>5907.99</u>	<u>6107.53</u>	<u>6338.98</u>	<u>6554.47</u>	<u>6768.39</u>	<u>6987.06</u>	<u>7216.95</u>
Parks Manager	<u>6754.01</u>	<u>6980.66</u>	<u>7247.23</u>	<u>7491.50</u>	<u>7735.71</u>	<u>7987.91</u>	<u>8249.73</u>
Parks Supervisor	<u>5295.02</u>	<u>5472.21</u>	<u>5681.34</u>	<u>5872.87</u>	<u>6064.42</u>	<u>6262.38</u>	<u>6465.09</u>
Police Captain	<u>8225.95</u>	<u>8508.11</u>	<u>8837.27</u>	<u>9139.60</u>	<u>9441.89</u>	<u>9750.94</u>	<u>10075.08</u>
Police Deputy Chief	<u>9558.84</u>	<u>9884.40</u>	<u>10268.91</u>	<u>10618.00</u>	<u>10968.77</u>	<u>11331.32</u>	<u>11705.74</u>
Police Records Manager	<u>5330.13</u>	<u>5510.55</u>	<u>5719.67</u>	<u>5912.80</u>	<u>6105.95</u>	<u>6303.86</u>	<u>6509.79</u>
Pretreatment Manager	<u>7173.83</u>	<u>7416.44</u>	<u>7698.97</u>	<u>7960.79</u>	<u>8220.99</u>	<u>8489.13</u>	<u>8766.87</u>
Principal Planner	<u>6754.01</u>	<u>6980.66</u>	<u>7247.23</u>	<u>7491.50</u>	<u>7735.71</u>	<u>7987.91</u>	<u>8249.73</u>
Purchasing Contracts Administrator	<u>5330.13</u>	<u>5510.55</u>	<u>5719.67</u>	<u>5913.32</u>	<u>6105.95</u>	<u>6303.86</u>	<u>6641.08</u>
Recreation Supervisor	<u>5295.02</u>	<u>5472.21</u>	<u>5681.34</u>	<u>5872.87</u>	<u>6064.42</u>	<u>6262.38</u>	<u>6465.09</u>
Regulatory Compliance Specialist	<u>7595.21</u>	<u>7850.67</u>	<u>8153.91</u>	<u>8428.49</u>	<u>8704.63</u>	<u>8988.77</u>	<u>9282.50</u>
Shops Supervisor	<u>6034.11</u>	<u>6236.82</u>	<u>6476.26</u>	<u>6693.36</u>	<u>6912.06</u>	<u>7137.11</u>	<u>7370.15</u>
Sr. Business Systems Analyst	<u>5403.78</u>	<u>5758.54</u>	<u>6113.31</u>	<u>6468.08</u>	<u>6822.86</u>	<u>7177.64</u>	<u>7532.40</u>
Sr. GIS Administrator	<u>5403.78</u>	<u>5758.54</u>	<u>6113.31</u>	<u>6468.08</u>	<u>6822.86</u>	<u>7177.64</u>	<u>7532.40</u>
Sr. HR Analyst	<u>6297.10</u>	<u>6635.06</u>	<u>7008.99</u>	<u>7393.78</u>	<u>7800.59</u>	<u>8229.45</u>	<u>8682.01</u>
Sr. Network Administrator	<u>5403.78</u>	<u>5758.54</u>	<u>6113.31</u>	<u>6468.08</u>	<u>6822.86</u>	<u>7177.64</u>	<u>7532.40</u>
Sr. Security Administrator	<u>5403.78</u>	<u>5758.54</u>	<u>6113.31</u>	<u>6468.08</u>	<u>6822.86</u>	<u>7177.64</u>	<u>7532.40</u>
Sr. System Administrator	<u>5403.78</u>	<u>5758.54</u>	<u>6113.31</u>	<u>6468.08</u>	<u>6822.86</u>	<u>7177.64</u>	<u>7532.40</u>
Sr. Tax Auditor	<u>6754.01</u>	<u>6980.66</u>	<u>7247.23</u>	<u>7491.50</u>	<u>7735.71</u>	<u>7987.91</u>	<u>8249.73</u>
Stormwater Coordinator	<u>7595.21</u>	<u>7850.67</u>	<u>8153.91</u>	<u>8428.49</u>	<u>8704.63</u>	<u>8988.77</u>	<u>9282.50</u>
Stormwater Engineering Manager	<u>8982.05</u>	<u>9465.62</u>	<u>9949.19</u>	<u>10432.76</u>	<u>10916.32</u>	<u>11399.89</u>	<u>11884.09</u>
Stormwater Utility Maint. Supervisor	<u>5907.99</u>	<u>6107.53</u>	<u>6338.98</u>	<u>6554.47</u>	<u>6768.39</u>	<u>6987.06</u>	<u>7216.95</u>
Streets Maintenance Supervisor	<u>5907.99</u>	<u>6107.53</u>	<u>6338.98</u>	<u>6554.47</u>	<u>6768.39</u>	<u>6987.06</u>	<u>7216.95</u>
Tax Audit Manager	<u>8152.70</u>	<u>8397.24</u>	<u>8649.18</u>	<u>8908.59</u>	<u>9175.88</u>	<u>9451.10</u>	<u>9734.73</u>
Traffic Control Supervisor	<u>5907.99</u>	<u>6107.53</u>	<u>6338.98</u>	<u>6554.47</u>	<u>6768.39</u>	<u>6987.06</u>	<u>7216.95</u>
Traffic Engineer	<u>8216.68</u>	<u>8497.72</u>	<u>8778.76</u>	<u>9059.80</u>	<u>9340.84</u>	<u>9621.87</u>	<u>9902.91</u>
WW Collections Supervisor	<u>5907.99</u>	<u>6107.53</u>	<u>6338.98</u>	<u>6554.47</u>	<u>6768.39</u>	<u>6987.06</u>	<u>7216.95</u>
WW Engineering Manager	<u>8982.05</u>	<u>9465.62</u>	<u>9949.19</u>	<u>10432.76</u>	<u>10916.32</u>	<u>11399.89</u>	<u>11884.09</u>
WWTP Lab Supervisor	<u>7173.83</u>	<u>7416.44</u>	<u>7698.97</u>	<u>7960.79</u>	<u>8220.99</u>	<u>8489.13</u>	<u>8766.87</u>
WW Maintenance Supervisor	<u>7173.83</u>	<u>7416.44</u>	<u>7698.97</u>	<u>7960.79</u>	<u>8220.99</u>	<u>8489.13</u>	<u>8766.87</u>
WWTP Superintendent	<u>8361.45</u>	<u>8643.95</u>	<u>8976.01</u>	<u>9279.29</u>	<u>9582.60</u>	<u>9895.48</u>	<u>10221.11</u>

CITY OF PUEBLO SALARY SCHEDULE
MONTHLY SALARY SCHEDULE - APPOINTED
2023

<u>CLASS TITLE</u>	<u>MONTHLY BASE SALARY</u>	<u>MERIT PAY RANGES GRANTED UNDER SECTION 6-5-1(B)</u>
<u>(C) APPOINTED</u>		
<u>Assistant City Attorney I</u>	<u>5919.02</u>	<u>7398.78</u>
<u>Assistant City Attorney II</u>	<u>7398.78</u>	<u>8302.58</u>
<u>Assistant City Attorney III</u>	<u>8302.67</u>	<u>10160.90</u>
<u>Assistant Mayor/Comm Investment</u>	<u>7965.36</u>	<u>10258.45</u>
<u>Assistant Mayor/Development Services</u>	<u>7965.36</u>	<u>10258.45</u>
<u>City Attorney</u>	<u>12965.51</u>	<u>15923.73</u>
<u>City Clerk</u>	<u>8701.08</u>	<u>10636.63</u>
<u>Chief of Staff</u>	<u>7771.08</u>	<u>10982.96</u>
<u>Deputy City Attorney</u>	<u>11177.94</u>	<u>12515.44</u>
<u>Deputy Mayor</u>	<u>No monthly salary is provided with respect to appointment to the position of Deputy Mayor. All compensation received by the Department Director appointed to this position shall be continued.</u>	
<u>Director/Aviation</u>	<u>8701.08</u>	<u>10636.63</u>
<u>Director/Finance</u>	<u>9522.05</u>	<u>11637.70</u>
<u>Director/Housing and Citizen Services</u>	<u>9531.54</u>	<u>11650.72</u>
<u>Director/Human Resources</u>	<u>9901.70</u>	<u>12103.18</u>
<u>Director/Information Technology</u>	<u>9901.70</u>	<u>12103.18</u>
<u>Director/Just Transitions Program</u>	<u>6428.92</u>	<u>7806.54</u>
<u>Director/Parks & Recreation</u>	<u>10146.69</u>	<u>12401.34</u>
<u>Director/Planning</u>	<u>9901.70</u>	<u>12103.18</u>
<u>Director/Public Affairs</u>	<u>6428.92</u>	<u>7806.54</u>
<u>Director/Public Works</u>	<u>11445.66</u>	<u>13988.75</u>
<u>Director/Purchasing</u>	<u>8701.08</u>	<u>10636.63</u>
<u>Director/Stormwater</u>	<u>9901.71</u>	<u>12103.18</u>
<u>Director/Wastewater</u>	<u>10246.18</u>	<u>12522.94</u>
<u>Fire Chief</u>	<u>11150.71</u>	<u>13627.75</u>
<u>Mayor</u>	<u>12500.00</u>	<u>12500.00</u>
<u>Municipal Court Judge</u>	<u>9609.02</u>	<u>12390.61</u>
<u>Police Chief</u>	<u>11445.66</u>	<u>14131.60</u>
<u>Secretary to the Mayor</u>	<u>4592.27</u>	<u>5819.82</u>
<u>Sr. Assistant City Attorney</u>	<u>10160.99</u>	<u>11177.84</u>

SECTION 2.

Section 18 of Chapter 5 of Title VI of the Pueblo Municipal Code is hereby amended to read as follows:

6-5-18. Unclassified part-time employees.

(a) The pay range with respect to all unclassified part time employees of the City shall be not less than [~~\$12.56~~] \$13.56 per hour and not greater than \$40.00.

SECTION 3.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with the intent of this Ordinance to effectuate and transactions described therein.

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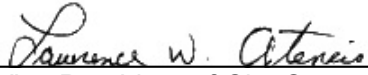
SECTION 4.

This Ordinance shall become effective January 1, 2023.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 12, 2022.

Final adoption of Ordinance by City Council on December 27, 2022.



Vice President of City Council

Action by the Mayor:

☒ Approved on December 29, 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



Deputy City Clerk