



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

**MONDAY, APRIL 10, 2023
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 Richie Perko, Pueblo Christian Center

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

E. SPECIAL RECOGNITIONS

E1 Proclamation Presentation: "Arbor Day", Mike Taft - Parks Supervisor, and Charlie Kuntz - Forestry Program Coordinator

E2 Proclamation Presentation: "Parkinson's Awareness Month," Nick Herrera - Facilitator of Parkinson's Support Group, Kathy Unwin - Member

E3 Recognition Presentation: Pueblo East High School Wrestling Team, Coach Patrick Laughlin

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 March 27, 2023, as distributed.

J1 City Council Minutes March 27, 2023

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 for 2/8/2023

M. RESOLUTIONS

- M1 A Resolution awarding a construction contract in the amount of \$524,849.50 to Doug Vaughn, LLC, for Project No. 23-009, Concrete Improvements - Court Street, setting forth \$78,728 for contingencies, and authorizing the Purchasing Agent to execute same
- M2 A Resolution awarding a construction contract in the amount of \$395,853 to A-1 Chipseal Co., for Project No. 23-057, Asphalt Improvements - Crestview Hills, setting forth \$59,378 for contingencies, and authorizing the Purchasing Agent to execute same
- M3 A Resolution awarding a construction contract in the amount of \$272,082.40 to A-1 Chipseal Co., for Project No. 23-056, Asphalt Improvements - Regency Crest, setting forth \$40,812.60 for contingencies, and authorizing the Purchasing Agent to execute same
- M4 A Resolution authorizing payment in the amount of two hundred fifty thousand dollars (\$250,000.00) from project CI2113 – American Rescue Plan Act for a governmental project to construct a ramp to the renovated Barkman branch library which is in compliance with the Americans with Disabilities Act and to make improvements to an adjacent parking lot and to build a pedestrian bridge adjacent to the library, as authorized by section 603(C)(1)(C) of the American rescue plan act and U.S. Treasury final rule 31 CFR 35.6
- M5 A Resolution transferring .04 from CI1702, \$4,759.67 from CI1802, \$17,262.95 from CI1823, \$7687.75 from CI1904, \$9315.71 from CI2001, \$115,000 from CI2101, \$32,000 from CI2102, \$28,191.00 from CI2114, totaling \$214,217.80 into project no. CI2304 for the purposes of capital improvement purchases of 3 apparatus
- M6 A Resolution ratifying an emergency construction contract in the amount of \$77,701.95 with Parker Excavating, Inc. for emergency sanitary sewer point repair at 13 Bruce Ln, Project No. 20-059 (WWAN03) and approving the Purchasing Agent's execution of the same
- M7 A Resolution awarding a change order in the amount of \$11,948.07 to Parker Excavating, Inc., for Project No. 23-044, West 31st Street at Wildhorse Creek - emergency repair, and authorizing the Purchasing Agent to execute same
- M8 A Resolution authorizing the issuance of a revocable permit to Colorado State University - Pueblo (CSU-Pueblo) for use of the public right-of-way along Rawlings Avenue to facilitate the CSU-Pueblo graduation ceremony on Saturday, May 13, 2023.
- M9 A Resolution authorizing the issuance of a revocable permit to the HARP Foundation, a Colorado nonprofit corporation, for the use of portions of Alan Hamel Drive and Main Street public right-of-way to facilitate their annual Rollin' 4th of July Fireworks Celebration
- M10 A Resolution authorizing the issuance of a revocable permit to Ybarra's Boxing Club, a Colorado Nonprofit Corporation, for the use of the public right-of-way on Court Street between West 3rd Street and West 4th Street and a City-owned parking lot to facilitate a Cinco de Mayo boxing event
- M11 A Resolution authorizing the issuance of a revocable permit (REV-23-13) to The Food Truck Union, LLC., a Colorado limited liability company, for use of the public right-of-way along Court Street and W. 15th Street adjacent to Mineral Palace Park to facilitate Food Truck Union events on certain specified dates between April 14, 2023 and October 31, 2023

- M12 A Resolution approving the adoption of the City of Pueblo Drainage Criteria Manual
- M13 A Resolution approving Amendment No. 3 to the Public Art Services Agreement between the City of Pueblo, a Colorado Municipal Corporation, and Kenneth T. Williams, related to Project No. 17-065, Public Art Project for Pueblo I-25 Gateway, and authorizing the Purchasing Agent to execute same
- M14 A Resolution approving and authorizing the Mayor to execute a Software License and Support Agreement between the City of Pueblo, a Colorado Municipal Corporation, and Chenosa Systems Corporation, a New Jersey corporation doing business as ProPhoenix, and a related Software Escrow Agreement, for the software licensing and installation of a new Police Department Record Management and Computer-Aided Dispatch System, as authorized by Section 603(c)(1)(C) of The American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6
- M15 A Resolution confirming the appointment by the Mayor of Robert Hudgens, Shawn Shelton, and Frank Nemick to serve a three-year term expiring April 1, 2025 on the Fire Board of Appeals
- M16 A Resolution confirming the appointment by the Mayor of Kurt Madic to the Pueblo Depot Activity Development Authority Board of Directors, AKA PuebloPlex
- M17 A Resolution authorizing the issuance of a revocable permit (REV-23-12) to The Food Truck Union, LLC., a Colorado limited liability company, for use of the public right-of-way along Goodnight Avenue in City Park to facilitate Food Truck Union events on certain specified dates between April 7, 2023 and October 31, 2023

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 Crossroads' turning points, inc., 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 seven hundred fifty thousand dollars (\$750,000.00) from project no. CI2113 - American rescue plan act, for purposes thereof
- N2 An Ordinance accepting funds in the amount of \$116,533.87 from Pueblo County for Aviation Fuel Taxes collected through Pueblo County sales tax collections, to be used for advertising for the Pueblo Memorial Airport, and budgeting and appropriating said funds to project APAN01 - Airport Advertising
- N3 An Ordinance approving and accepting a grant and applicable conditions pertaining thereto with the State of Colorado Department of Local Affairs (DOLA) Peace Officers Mental Health Support Grant Program, in the amount of \$99,464.00 establishing project number PS2301, and budgeting and appropriating funds into project PS2301
- N4 An Ordinance approving and adopting the City of Pueblo's 2023-2024 Action Plan for the Community Development Block Grant (CDBG) and the Home Investment Partnership Act Grant (HOME), authorizing the Mayor of the City of Pueblo to submit the application together with all required and necessary certifications, assurances, and documentation to the U. S. Department of Housing and Urban Development, and appropriating and budgeting CDBG and HOME funds therefore
- N5 An Ordinance amending Section 12-5-5 of the Pueblo Municipal Code relating to street vacation application fees and reapplications
- N6 An Ordinance approving a parking agreement between Pueblo County and the City of Pueblo, relating to the County's use of parking spaces in the City's parking lot located at

W. 8th Street and Court Street and authorizing execution thereof by the Mayor

- N7 An Ordinance approving a Public Art Donation Agreement between Lyle Clift and the City of Pueblo, a Colorado Municipal Corporation, relating to the donation of artwork for public enjoyment as part of the Pueblo History and Artwalk Project and authorizing execution thereof by the Mayor
- N8 An Ordinance approving an agreement between the City of Pueblo, a Colorado Municipal Corporation, and the State of Colorado, by and through the Colorado State Fair Authority, related to the use of State facilities in support of a City-Wide Cleanup Event and authorizing the Mayor to execute said agreement
- N9 An Ordinance approving an intergovernmental agreement (IGA) between Colorado State Patrol and the City of Pueblo relating to use of the Pueblo Fire Department training facilities
- N10 An Ordinance amending Section 14-4-77 of the Pueblo Municipal Code relating to items exempt from use tax and clarifying that the use tax exemption with respect to nonresidents and property purchased prior to residency applies only to individuals and personal use of such property
- N11 An Ordinance amending the Fiscal Year 2023 Staffing Ordinance by temporarily adding a position within the Law Department for training purposes
- N12 An Ordinance approving and authorizing the Mayor to sign a Subrecipient Agreement between the City of Pueblo, a Colorado Municipal Corporation and the Pueblo Cooperative Care Center, a Colorado nonprofit corporation relating to its mobile shower program as authorized by Section 603 (c)(1)(a) of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6 and authorizing the payment of forty thousand dollars (\$40,000) from Project No. CI2113 - American Rescue Plan Act, for purposes thereof

O. APPROVAL OF CONSENT AGENDA

I move to approve all Resolutions Set Forth in the Consent Agenda; Pass the Ordinances of the Consent Agenda, Setting the Public Hearings for April 24, 2023, and Order the Ordinances to be published BY TITLE.

P. REGULAR AGENDA

Q. RESOLUTIONS

- Q1 A Resolution authorizing payment from the council contingencies account in the 2023 general fund budget to Pueblo County in the amount of \$500 to sponsor the County Courthouse Lighting Ceremony at 7 pm on Tuesday, November 21, 2023
- Q2 A Resolution authorizing payment from the council contingencies account in the 2023 general fund budget to Latino Chamber Foundation in the amount of \$2,000 to sponsor the Annual Tostada Event at 6 pm on Friday, May 5, 2023 at the Sangre de Cristo Arts & Conference Center
- Q3 A Resolution authorizing payment from the council contingencies account in the 2023 general fund budget to Pueblo Child Advocacy Center in the amount of \$1,000 to sponsor the campaign for child abuse prevention
- Q4 A Resolution authorizing payment from the council contingencies account in the 2023 general fund budget to Southern Colorado Harm Reduction Association in the amount of \$2,500 as the fiscal agent for the Gang Alternative Program of Pueblo to sponsor the Gun Buyback Program

- Q5 A Resolution authorizing payment from the council contingencies account in the 2023 general fund budget to the Pueblo Downtown Association in the amount of \$700 to sponsor the 2023 Pueblo Levee Walk on June 10, 2023 from 7 am - 11 am

R. ORDINANCES – FINAL PRESENTATION

- R1 An Ordinance approving an agreement for Professional Engineering services in the amount of \$300,000 between the City of Pueblo, a Colorado Municipal Corporation, and Brown and Caldwell, Inc., for consulting engineering services with respect to the Stockyard Road 60- and 66-inch pipeline CIPP rehabilitation design and authorizing the Mayor to execute same - *Introduced March 27, 2023 by Larry Atencio*
- R2 An Ordinance approving and authorizing the Mayor to execute the contract between the City of Pueblo, a Colorado Municipal Corporation, and Financial Consulting Solutions Group, Inc., d.b.a. FCS Group, to provide utility rate consulting services for the Pueblo Wastewater Department and naming said Company as the rate consultant of record - *Introduced March 27, 2023 by Larry Atencio*
- R3 An Ordinance approving a Public Art Donation Agreement between Tia Monson and the City of Pueblo, a Colorado Municipal Corporation, relating to the donation of artwork for public enjoyment as part of the Pueblo History and Artwalk Project and authorizing execution thereof by the Mayor - *Introduced March 27, 2023 by Larry Atencio*
- R4 An Ordinance amending zoning restrictions to rezone 2001, 2005, 2009 Oakland Avenue, lots 1 through 3 block 1, CF&I corporation subdivision, from R-2, single family residential and O-1, neighborhood office to R-5, Multiple Residential and Office Zone District - *Introduced March 27, 2023 by Larry Atencio*
- R5 An Ordinance amending zoning restrictions to rezone 2716 Thornberry Lane, lot 4, block 4, South Prairie Subdivision, 2nd filing, from B-3, Highway and Arterial Business District to I-2, Light Industrial District - *Introduced March 27, 2023 by Larry Atencio*
- R6 An Ordinance approving and authorizing the City to sell and assign certain liens encumbering real property pursuant to Title VII, Chapter 9 of the Pueblo Municipal Code, and authorizing the Mayor to execute assignments of lien - *Introduced March 27, 2023 by Larry Atencio*
- R7 An Ordinance fixing the monthly salaries of the members and President of the City Council at \$1,400 and \$1,800 respectively - *Introduced March 27, 2023 by Larry Atencio*
- R8 An Ordinance approving and authorizing the Mayor to sign a Subrecipient Agreement between the City of Pueblo, a Colorado Municipal Corporation and the Southern Colorado Harm Reduction Association, 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 nine hundred seventy-five thousand dollars (\$975,000) from project no. CI2113 - American Rescue Plan Act, for purposes thereof - *Introduced March 27, 2023 by Larry Atencio*
- R9 An Ordinance amending Sections 11-1-401 and 11-1-407 of the Pueblo Municipal Code to add a mandatory minimum jail sentence for those convicted thereof, where the value of the property stolen is three hundred dollars (\$300) or more, and to amend Section 1-2-1 of the Pueblo Municipal Code to add a mandatory minimum jail sentence for those convicted as habitual offenders having violated section 11-1-401 or 11-1-407 of the Code - *Introduced March 27, 2023 by Larry Atencio*

S. EMERGENCY ORDINANCES

- S1 An Emergency Ordinance transferring \$55,000 from the Unappropriated Fund Balance of

the General Fund to Project No. PL1801 - Dillon Flyover Bridge Art Project, and budgeting and appropriating \$55,000 for said project

- S2 An Emergency Ordinance establishing project no. CI2318 – land purchase to expand Harp project and transferring one million two hundred thousand three hundred thirteen dollars (\$1,200,313.00) and related closing costs from the unappropriated fund balance of the general fund to project no. CI2318 for purposes of purchasing approximately 2.06 acres of improved land lated at 175 S. Santa Fe Avenue and 131 S. Mechanic Street, Pueblo, CO 81003 for the expansion of the historic Arkansas river project

T. ADJOURN



**REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS – CITY HALL
#1 CITY HALL PLACE
MONDAY, MARCH 27, 2023 - 7:00 PM
MINUTES**

A. CALL TO ORDER

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

B. INVOCATION

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

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

Council Members Present via Zoom: None.

Council Members Absent: Vicente Martinez Ortega.

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

E. SPECIAL RECOGNITIONS

E1 PROCLAMATION PRESENTATION: "CHILD ABUSE PREVENTION MONTH - APRIL 2023", KEELEY LUCE, RESOURCE DEVELOPMENT COORDINATOR AND FELYSHA VALDEZ, FAMILY CARE SPECIALIST FOR PUEBLO CHILD ADVOCACY CENTER

E2 RECOGNITION PRESENTATION: PUEBLO HUMAN RELATIONS COMMISSION, 2023 STUDENT CALENDAR

E3 PROCLAMATION PRESENTATION: "WEEK OF THE YOUNG CHILD - APRIL 1-7 2023", ANGELA SHEHORN, DIRECTOR FOR CHILDREN FIRST/PUEBLO EARLY CHILDHOOD COUNCIL

E4 RECOGNITION PRESENTATION: ARPA TASKFORCE VOLUNTEERS

F. PUBLIC FORUM

- Steve Villejos - Pueblo
- Dr. Mike - SUD
- Ted Freeman - Economic Development
- Rebecca Robles - Take it Down
- Deborah Espwosh - C. Columbus reaping
- Dave DeCenzo - Demographic
- Pablo Moora - Utility rates
- Ron Pety - Dist 2 Safety
- Randolph Carrillo - Stop signs
- Omar Maldonado - Abandoned homes/real estate investment
- Jacquelyn Bernal - Community Engagement

G. COUNCIL MEMBER AND MAYOR COMMENTARY

Mayor Gradisar discussed N6, Lights on for Safety, N8, Liens, Mayor's challenge to Save Water (April). Go to mywaterpledge.com to participate.

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 requested to delay item N6 to the April 24, 2023 agenda.

Councilor Martinez, seconded by Councilor Flores, moved to move item N6 to the April 24, 2023 agenda and approve the agenda as amended.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Winner. **Nays:** None. Motion Passed 6-0.

J. READING AND APPROVAL OF MINUTES

J1 CITY COUNCIL MINUTES MARCH 13, 2023

Councilor Martinez, seconded by Councilor Maestri, moved to dispense with the reading and approve the Minutes of the Regular Meeting dated **March 13, 2023** as distributed.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Winner. **Nays:** None. Motion Passed 6-0.

K. PUBLIC HEARINGS

K1 PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC TESTIMONY AS IT PERTAINS TO THE ASSESSMENT OF THE COSTS OF DEMOLITION AND REMOVAL OF DANGEROUS BUILDINGS AND OTHER STRUCTURES UPON LAND LOCATED AT 1608 WABASH AVE AND 1103 E. 8 STREET. REQUIRED COUNCIL ACTION: OPEN THE HEARING, RECEIVE PUBLIC TESTIMONY, AND CLOSE THE HEARING. REFERENCE ITEMS R5 AND R6

PUBLIC HEARING:

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

L. CONSENT AGENDA

M. RESOLUTIONS

- M1 A RESOLUTION AWARDED A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$653,921.80 TO TONY J. BELTRAMO & SONS, INC., FOR PROJECT NO. 23-050, STREET IMPROVEMENTS - WEST 11TH STREET, SETTING FORTH \$98,088.20 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME**

This Resolution was assigned as 15178.

- M2 A RESOLUTION AWARDED A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$467,581.45 TO PYRAMID CONSTRUCTION, INC., FOR PROJECT NO. 23-008, STREET IMPROVEMENTS - CHEYENNE AVENUE, SETTING FORTH \$93,516.29 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME**

This Resolution was assigned as 15179.

- M3 A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF \$65,000 FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT FOR A GOVERNMENT PROJECT TO RENOVATE THE HEADWATERS FOUNTAIN WATER CIRCULATION SYSTEM, AS AUTHORIZED BY SECTION 603(C)(1)(C) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6**

This Resolution was assigned as 15180.

- M4 A RESOLUTION AUTHORIZING THE TRANSFER OF \$40,108 FROM ELMWOOD GOLF COURSE ENTERPRISE CAPITAL PROJECT EW2304 - ELMWOOD GOLF COURSE PARKING LOT REPAIRS INTO EW2303 - ELMWOOD GOLF COURSE IRRIGATION PUMP STATION REPLACEMENT**

This Resolution was assigned as 15181.

- M5 A RESOLUTION APPROVING AMENDMENT NO. 4 TO THE AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND SHORT-ELLIOTT-HENDRICKSON, INC., IN THE AMOUNT OF \$18,685 FOR PROJECT NO. 21-075, DILLON AND EAGLERIDGE ROUNDABOUT, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME**

This Resolution was assigned as 15182.

- M6 A RESOLUTION APPROVING AMENDMENT NO. 5 OF THE AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND SHORT-ELLIOTT-HENDRICKSON, INC., IN THE AMOUNT OF \$22,031 FOR 21-075, DILLON AND EAGLERIDGE ROUNDABOUT, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME**

This Resolution was assigned as 15183.

M7 A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO CASA OF PUEBLO, A COLORADO NONPROFIT CORPORATION, FOR THE USE OF THE PUBLIC RIGHT-OF-WAY ADJACENT TO 107 QUINCY AVENUE FOR THE PURPOSE OF INSTALLING AWNINGS

This Resolution was assigned as 15184.

N. ORDINANCES – FIRST PRESENTATION

N1 AN ORDINANCE APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF \$300,000 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BROWN AND CALDWELL, INC., FOR CONSULTING ENGINEERING SERVICES WITH RESPECT TO THE STOCKYARD ROAD 60- AND 66-INCH PIPELINE CIPP REHABILITATION DESIGN AND AUTHORIZING THE MAYOR TO EXECUTE SAME

N2 AN ORDINANCE APPROVING A PUBLIC ART DONATION AGREEMENT BETWEEN TIA MONSON AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, RELATING TO THE DONATION OF ARTWORK FOR PUBLIC ENJOYMENT AS PART OF THE PUEBLO HISTORY AND ARTWALK PROJECT AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

N3 AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE 2001, 2005, 2009 OAKLAND AVENUE, LOTS 1 THROUGH 3 BLOCK 1, CF&I CORPORATION SUBDIVISION, FROM R-2, SINGLE FAMILY RESIDENTIAL AND O-1, NEIGHBORHOOD OFFICE TO R-5, MULTIPLE RESIDENTIAL AND OFFICE ZONE DISTRICT

N4 AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE 2716 THORNBERRY LANE, LOT 4, BLOCK 4, SOUTH PRAIRIE SUBDIVISION, 2ND FILING, FROM B-3, HIGHWAY AND ARTERIAL BUSINESS DISTRICT TO I-2, LIGHT INDUSTRIAL DISTRICT

N5 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND FINANCIAL CONSULTING SOLUTIONS GROUP, INC., D.B.A. FCS GROUP, TO PROVIDE UTILITY RATE CONSULTING SERVICES FOR THE PUEBLO WASTEWATER DEPARTMENT AND NAMING SAID COMPANY AS THE RATE CONSULTANT OF RECORD

N6 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A

COLORADO MUNICIPAL CORPORATION AND PUEBLO CRIME STOPPERS, INC., 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 TWO HUNDRED THOUSAND DOLLARS (\$200,000) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES OF PROVIDING FINANCIAL SUPPORT TO THE "LIGHTS ON FOR SAFETY" PROJECT FOR LOCAL SMALL BUSINESSES LOCATED IN QUALIFIED CENSUS TRACTS IN THE CITY OF PUEBLO WHICH WERE THEREBY DISPROPORTIONATELY IMPACTED BY THE COVID-19 PANDEMIC

N7 AN ORDINANCE APPROVING AND AUTHORIZING THE CITY TO SELL AND ASSIGN CERTAIN LIENS ENCUMBERING REAL PROPERTY PURSUANT TO TITLE VII, CHAPTER 9 OF THE PUEBLO MUNICIPAL CODE, AND AUTHORIZING THE MAYOR TO EXECUTE ASSIGNMENTS OF LIEN

N8 AN ORDINANCE FIXING THE MONTHLY SALARIES OF THE MEMBERS AND PRESIDENT OF THE CITY COUNCIL AT \$1,400 AND \$1,800 RESPECTIVELY

N9 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE SOUTHERN COLORADO HARM REDUCTION ASSOCIATION, 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 NINE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$975,000) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

N10 AN ORDINANCE AMENDING SECTIONS 11-1-401 AND 11-1-407 OF THE PUEBLO MUNICIPAL CODE TO ADD A MANDATORY MINIMUM JAIL SENTENCE FOR THOSE CONVICTED THEREOF, WHERE THE VALUE OF THE PROPERTY STOLEN IS THREE HUNDRED DOLLARS (\$300) OR MORE, AND TO AMEND SECTION 1-2-1 OF THE PUEBLO MUNICIPAL CODE TO ADD A MANDATORY MINIMUM JAIL SENTENCE FOR THOSE CONVICTED AS HABITUAL OFFENDERS HAVING VIOLATED SECTION 11-1-401 OR 11-1-407 OF THE CODE

O. APPROVAL OF CONSENT AGENDA

Councilor Atencio, seconded by Councilor Martinez, moved to approve all Resolutions Set Forth in the Consent Agenda, Pass the Ordinances of the Consent Agenda, Setting the Public Hearings for Monday, April 10, 2023, and Order the Ordinances to be published BY TITLE.

Roll Call – **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Winner. **Nays:** None. Motion Passed 6-0.

P. REGULAR AGENDA

Q. RESOLUTIONS

R. ORDINANCES – FINAL PRESENTATION

R1 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND PUEBLO CITY-COUNTY HEALTH DEPARTMENT, A DIVISION OF THE STATE OF COLORADO, AND AUTHORIZING THE PAYMENT OF FIFTY FIVE THOUSAND DOLLARS (\$55,000) FROM FUND NO. 226 - OPIOID ABATEMENT SETTLEMENT, FOR PURPOSES THEREOF

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

PUBLIC HEARING:

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

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

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Winner. **Nays:** None. Motion Passed 6-0.

This Ordinance was assigned as 10417.

R2 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN AN AMENDMENT TO A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND POSADA, INC., 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 DOLLARS (\$50,000) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

A staff report and detailed review of the Ordinance was given by Bryan Gallagher, Director of Housing and Citizen Services.

PUBLIC HEARING:

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

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

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Martinez. **Nays:** Councilor Maestri, Councilor Winner. Motion Passed 4-2.

This Ordinance was assigned as 10418.

R3 AN ORDINANCE APPROVING AND ADOPTING A SUBSTANTIAL

**AMENDMENT TO THE CITY OF PUEBLO'S FY2021 ACTION PLAN
INCORPORATING THE HOME INVESTMENT PARTNERSHIP AMERICAN
RESCUE PLAN (HOME-ARP) ACT FUNDS ALLOCATED TO THE PUEBLO
CONSORTIUM, AND AUTHORIZING THE MAYOR TO EXECUTE AND SUBMIT
THE SUBSTANTIAL AMENDMENT TOGETHER WITH ALL REQUIRED AND
NECESSARY CERTIFICATIONS, ASSURANCES AND DOCUMENTATION TO
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

A staff report and detailed review of the Ordinance was given by Bryan Gallagher, Director of Housing and Citizen Services.

PUBLIC HEARING:

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

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

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Martinez, Councilor Winner. **Nays:** Councilor Maestri. Motion Passed 5-1.

This Ordinance was assigned as **10419**.

**R4 AN ORDINANCE APPROVING AMENDMENT NO. 1 FIXED BASE OPERATOR
GROUND LEASE AND OPERATING AGREEMENT BY AND BETWEEN THE
CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, TRAVELAIRE
SERVICES, INC. AND FREEMAN HOLDINGS OF COLORADO, LLC, D/B/A
FREEMAN JET CENTER – PUEBLO, RELATING TO THE ASSIGNMENT OF
FUEL TANK RIGHTS, AND AUTHORIZING THE MAYOR TO EXECUTE SAME**

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

PUBLIC HEARING:

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

Councilor Flores, 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 Winner. **Nays:** None. Motion Passed 6-0.

This Ordinance was assigned as **10420**.

**R5 AN ORDINANCE TO ASSESS THE COST OF DEMOLITION AND REMOVAL OF
DANGEROUS BUILDINGS UPON LAND LOCATED AT 1608 WABASH
AVENUE**

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

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Winner. **Nays:** None. Motion Passed 6-0.

This Ordinance was assigned as **10421.**

R6 AN ORDINANCE TO ASSESS THE COST OF DEMOLITION AND REMOVAL OF DANGEROUS BUILDINGS UPON LAND LOCATED AT 1103 E. 8TH STREET

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

PUBLIC HEARING:

- Dave DeCenzo appeared in person to speak in favor of this ordinance

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

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

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Winner. **Nays:** None. Motion Passed 6-0.

This Ordinance was assigned as **10422.**

R7 AN ORDINANCE AMENDING ORDINANCE NO. 10373 TO UPDATE THE ASSIGNED PROJECT NUMBER FROM PL2203 TO PL2301

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

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Winner. **Nays:** None. Motion Passed 6-0.

This Ordinance was assigned as **10423.**

R8 AN ORDINANCE APPROVING A PUBLIC ART DONATION AGREEMENT BETWEEN REID MILLER AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, RELATING TO THE DONATION OF ARTWORK FOR PUBLIC ENJOYMENT AS PART OF THE PUEBLO HISTORY AND ARTWALK PROJECT AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

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, 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 Winner. **Nays:** None. Motion Passed 6-0.

This Ordinance was assigned as **10424.**

R9 AN ORDINANCE APPROVING A DEFERRED IMPROVEMENTS AGREEMENT BETWEEN MARK DITKOFF AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, RELATING TO THE CONSTRUCTION OF PUBLIC IMPROVEMENTS INCIDENTAL TO A REARRANGEMENT OF PROPERTY BOUNDARIES AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

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 Atencio, 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 Winner. **Nays:** None. Motion Passed 6-0.

This Ordinance was assigned as **10425.**

R10 AN ORDINANCE APPROVING AN AGREEMENT TO ACCEPT PROPERTY AND RELEASE OF CLAIMS BETWEEN CITY OF PUEBLO AND PUEBLO WEST FIRE DEPARTMENT RELATING TO ONE 2006 FREIGHTLINER HAZMAT APPARATUS

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

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Winner. **Nays:** None. Motion Passed 6-0.

This Ordinance was assigned as **10426.**

R11 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A LEASE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND PROFESSIONAL BULL RIDERS, LIC, A DELAWARE

**LIMITED LIABILITY COMPANY FOR STORAGE SPACE LOCATED AT 317
NORTH MAIN STREET, PUEBLO, COLORADO 81003**

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

PUBLIC HEARING:

- Ted Freeman appeared in person to speak against this ordinance

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

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

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Martinez. **Nays:** Councilor Maestri, Councilor Winner. Motion Passed 4-2.

This Ordinance was assigned as **10427.**

S. ADJOURN

President Graham adjourned the meeting at 10:01 p.m.

Respectfully submitted,

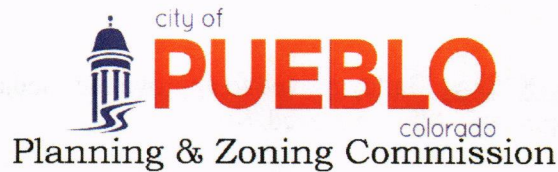


Marisa Stoller
City Clerk

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, February 8, 2023 – 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 3:33 p.m. with Commissioner Castellucci presiding.

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

Commissioners Absent: *None*

Staff Members Present: Dan Kogovsek, City Attorney; Scott Hobson, Acting Director for Department of Planning and Community Development; Beritt Odom, Principal Planner; Cindy Capritta, Land Use Technician.

APPROVAL OF THE AGENDA: Bailey moved to approve the January 11, 2023, agenda, motion was seconded by Spinuzzi. Motion passed 7-0.

REGULAR AGENDA:

Public Hearing and Action:

1. Z-22-21 Rezoning: 2001, 2005, 2009 Oakland Ave, rezoning .6 acres from R-2, Single Family residential and O-1, Neighborhood Office to R-5, Multiple Residential and Office District to develop a parking lot. Legally described as Lots 1,2,3, Block 1, Colorado Fuel and Iron Corporation Subdivision. Staff report by Wade Broadhead, Sr. Planner.

Discussion and Commission Action:

- Applicants: Tony Acri and Nick Laydon sworn in and spoke in favor of the Rezoning.
- Leroy Atencio, Mike Venuto, Fabian Montoya and Kate Ingo were sworn in and spoke in opposition to the application for Rezoning.

Bailey motioned to approve Z-22-21 **Rezoning**, motion was seconded by Avalos.

Motion Passed: 4 - 3.

2. V-22-05 Easement Vacation: Regency Crest Subdivision, Filing NO 8, Easement Vacation. Vacation of a five-foot Public Utility Easement, adjacent to the western property lines of Lots 1-4, Block 3, Regency Crest Subdivision, Filing NO 8 to facilitate the Regency Crest Filing 13, A Special Area Plan. Staff report by Beritt Odom, Principal Planner.

Discussion and Commission Action:

- Applicant Quintin Armijo was sworn in and spoke in favor of the Vacation.

Bailey motioned to approve **Z-22-05 Easement Vacation**; motion was seconded by Aznar.

Motion Passed: 7-0.

3. S-21-07 Subdivision: Regency Crest Filing NO 13. A Special Area Plan, subdivision of 36.661 acres into single-family lots, parcels for drainage, utilities, future development, and landscaping. Generally located south of St. Clair Ave and west of Plumcrest Drive in the Regency Crest West Annexation, 2004. Staff report by Beritt Odom, Principal Planner.

Discussion and Commission Action:

- Applicant Quintin Armijo remained sworn in and spoke in favor of the Subdivision.

Bailey motioned to approve **S-21-07 Subdivision** with the recommended conditions, motion was seconded by Aznar

Motion Passed: 7-0.

4. SAP-21-02 Special Area Plan: Regency Crest Filing NO 13. A Special Area Plan to allow the construction of a private street to provide access to Lots 35, 40 and 41 of Block 1. Generally located south of St Clair Ave. and west of Plumcrest Drive in the Regency Crest West Annexation, 2004. Staff report by Beritt Odom, Principal Planner.

Discussion and Commission Action:

- Applicant Quintin Armijo remained sworn in and spoke in favor of the Special Area Plan.

Bailey motioned to approve **S-21-07 Subdivision**; motion was seconded by Aznar.

Motion Passed: 7-0.

Approval of Minutes: January 11, 2023

Pasternak moved to approve the minutes. Second by Bailey.

Motion passed: 7-0.

Old/New Business:

1. Election of Chair, Vice Chair, ZBA Liaison, and TAC Liaisons.

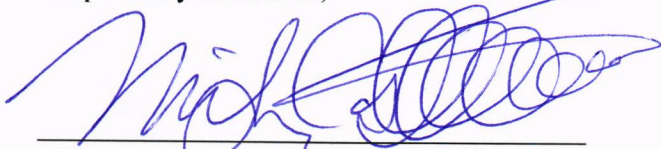
Bailey motioned to keep current positions, seconded by Aznar.

2. Review of Draft of the Short-Term Rental Ordinance, moved to P&Z Work session February 22, 2023.

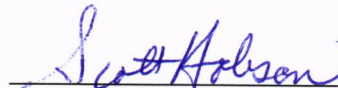
There being no further business the Regular Meeting was adjourned at 4:32 p.m.

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: April 10, 2023

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 \$524,849.50 TO DOUG VAUGHN, LLC, FOR PROJECT NO. 23-009, CONCRETE IMPROVEMENTS - COURT STREET, SETTING FORTH \$78,728 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a resolution awarding a construction contract to Doug Vaughn, LLC., for Project No. 23-009, Concrete Improvements - Court Street.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

In general, this project will consist of concrete improvements to the curb ramps, sidewalks, and crosspans on Court Street between City Center Drive and West 24th Street. This resolution awards the construction contract to Doug Vaughn, LLC.

FINANCIAL IMPLICATIONS:

Funding (including contingencies) in the amount of \$603,577.50 will be paid from account CI2309 Road & Street Repairs.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this resolution will cancel this project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 23-009 Bid Summary

RESOLUTION NO 15185.

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$524,849.50 TO DOUG VAUGHN, LLC, FOR PROJECT NO. 23-009, CONCRETE IMPROVEMENTS - COURT STREET, SETTING FORTH \$78,728 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for Project No. 23-009, Concrete Improvements - Court Street have been received and examined; and,

WHEREAS, the proposal of Doug Vaughn, LLC., 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. 23-009, Concrete Improvements - Court Street to be performed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The City Council authorizes Project No. 23-009, Concrete Improvements - Court Street, to be performed, and the contract for said project is hereby awarded to Doug Vaughn, LLC., in the amount of \$524,849.50.

SECTION 2.

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

SECTION 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.....\$78,728.00

SECTION 4.

Funds for Project 23-009 (including contingencies and additional work) shall be from Project account CI2309, Road & Street Repairs.

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.

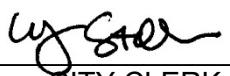
SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



City of Pueblo
Purchasing

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

EVALUATION TABULATION
IFB No. 23-009 (CI2309)
Concrete Improvements - Court Street
RESPONSE DEADLINE: March 15, 2023 at 10:00 am
Report Generated: Wednesday, March 15, 2023

SELECTED VENDOR TOTALS

Vendor	Total
Great Land Concrete work & Landscaping INC	\$455,633.70
Doug Vaughn, LLC	\$524,849.50
Baha Construction, Inc.	\$645,435.67
JARCCO Construction LLC	\$681,175.00
Sunland Asphalt & Construction, LLC	\$693,761.3786
Pyramid Construction, Inc.	\$782,106.90

BASE BID (Table 1 of 2)

					Baha Construction, Inc.		Doug Vaughn, LLC		Great Land Concrete work & Landscaping INC		JARCCO Construction LLC		Pyramid Construction, Inc.	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	1	Remove Asphalt	4953	SF	\$4.70	\$23,279.10	\$3.00	\$14,859.00	\$2.50	\$12,382.50	\$4.00	\$19,812.00	\$2.25	\$11,144.25

EVALUATION TABULATION
IFB No. 23-009 (CI2309)
Concrete Improvements - Court Street

Selected	Line Item	Description	Quantity	Unit of Measure	Baha Construction, Inc.		Doug Vaughn, LLC		Great Land Concrete work & Landscaping INC		JARCCO Construction LLC		Pyramid Construction, Inc.	
					Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	2	Remove Curb & Gutter	2242	LF	\$6.88	\$15,424.96	\$5.10	\$11,434.20	\$5.30	\$11,882.60	\$15.00	\$33,630.00	\$9.45	\$21,186.90
X	3	Remove Concrete	17822	SF	\$4.38	\$78,060.36	\$3.00	\$53,466.00	\$2.00	\$35,644.00	\$3.50	\$62,377.00	\$3.80	\$67,723.60
X	4	Remove 7" Reinforced Concrete	131	SF	\$8.00	\$1,048.00	\$4.00	\$524.00	\$3.50	\$458.50	\$5.00	\$655.00	\$10.80	\$1,414.80
X	6	Remove Brick Pavers	195	SF	\$5.00	\$975.00	\$4.00	\$780.00	\$1.50	\$292.50	\$4.00	\$780.00	\$12.95	\$2,525.25
X	7	Construct Curb Head	2866	LF	\$18.00	\$51,588.00	\$20.00	\$57,320.00	\$20.60	\$59,039.60	\$34.00	\$97,444.00	\$29.25	\$83,830.50
X	8	Construct Curb & Gutter	2248	LF	\$36.00	\$80,928.00	\$29.00	\$65,192.00	\$29.00	\$65,192.00	\$43.00	\$96,664.00	\$37.45	\$84,187.60
X	9	Construct 4" Concrete	12841	SF	\$9.50	\$121,989.50	\$6.10	\$78,330.10	\$6.20	\$79,614.20	\$10.00	\$128,410.00	\$7.05	\$90,529.05
X	10	Construct 6" Concrete	5417	SF	\$11.75	\$63,649.75	\$8.10	\$43,877.70	\$8.50	\$46,044.50	\$11.00	\$59,587.00	\$8.75	\$47,398.75
X	11	Construct 7" Reinforced Concrete	131	SF	\$16.00	\$2,096.00	\$14.00	\$1,834.00	\$9.80	\$1,283.80	\$13.00	\$1,703.00	\$34.75	\$4,552.25
X	12	Construct 2" Asphalt Patch	50	SF	\$10.00	\$500.00	\$8.00	\$400.00	\$2.00	\$100.00	\$9.00	\$450.00	\$14.55	\$727.50

EVALUATION TABULATION
IFB No. 23-009 (CI2309)
Concrete Improvements - Court Street

Selected	Line Item	Description	Quantity	Unit of Measure	Baha Construction, Inc.		Doug Vaughn, LLC		Great Land Concrete work & Landscaping INC		JARCCO Construction LLC		Pyramid Construction, Inc.	
					Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	13	Construct Asphalt Roadway Patch	4903	SF	\$9.00	\$44,127.00	\$9.50	\$46,578.50	\$8.50	\$41,675.50	\$10.00	\$49,030.00	\$4.75	\$23,289.25
X	14	Install Gravel 2" Deep	172	SF	\$10.00	\$1,720.00	\$12.00	\$2,064.00	\$5.00	\$860.00	\$5.00	\$860.00	\$11.00	\$1,892.00
X	15	Install Tactile Band 24"x24"	312	EA	\$310.00	\$96,720.00	\$220.00	\$68,640.00	\$192.00	\$59,904.00	\$173.00	\$53,976.00	\$627.00	\$195,624.00
X	16	Install Tactile Band 24"x30"	32	EA	\$350.00	\$11,200.00	\$250.00	\$8,000.00	\$250.00	\$8,000.00	\$236.00	\$7,552.00	\$749.00	\$23,968.00
X	17	Install Class 6 Base Materials (Place and Compact)	71	Ton	\$30.00	\$2,130.00	\$50.00	\$3,550.00	\$60.00	\$4,260.00	\$95.00	\$6,745.00	\$49.20	\$3,493.20
X	18	Mobilization	1	LS	\$25,000.00	\$25,000.00	\$35,000.00	\$35,000.00	\$8,000.00	\$8,000.00	\$35,000.00	\$35,000.00	\$28,815.00	\$28,815.00
X	19	Traffic Control	1	LS	\$20,000.00	\$20,000.00	\$25,000.00	\$25,000.00	\$19,000.00	\$19,000.00	\$19,000.00	\$19,000.00	\$64,110.00	\$64,110.00
X	20	Erosion and Sediment Control	1	LS	\$5,000.00	\$5,000.00	\$8,000.00	\$8,000.00	\$2,000.00	\$2,000.00	\$7,500.00	\$7,500.00	\$25,695.00	\$25,695.00
Total						\$645,435.67		\$524,849.50		\$455,633.70		\$681,175.00		\$782,106.90

EVALUATION TABULATION
IFB No. 23-009 (CI2309)
Concrete Improvements - Court Street

BASE BID (Table 2 of 2)

Selected	Line Item	Description	Quantity	Unit of Measure	Sunland Asphalt & Construction, LLC	
					Unit Cost	Total
X	1	Remove Asphalt	4953	SF	\$3.14	\$15,552.42
X	2	Remove Curb & Gutter	2242	LF	\$12.05	\$27,016.10
X	3	Remove Concrete	17822	SF	\$3.24	\$57,743.28
X	4	Remove 7" Reinforced Concrete	131	SF	\$17.1174	\$2,242.3794
X	6	Remove Brick Pavers	195	SF	\$6.20	\$1,209.00
X	7	Construct Curb Head	2866	LF	\$22.59	\$64,742.94
X	8	Construct Curb & Gutter	2248	LF	\$29.49	\$66,293.52
X	9	Construct 4" Concrete	12841	SF	\$6.72	\$86,291.52
X	10	Construct 6" Concrete	5417	SF	\$9.49	\$51,407.33
X	11	Construct 7" Reinforced Concrete	131	SF	\$15.60	\$2,043.60
X	12	Construct 2" Asphalt Patch	50	SF	\$5.50	\$275.00
X	13	Construct Asphalt Roadway Patch	4903	SF	\$9.768	\$47,892.504
X	14	Install Gravel 2" Deep	172	SF	\$6.1791	\$1,062.8052
X	15	Install Tactile Band 24"x24"	312	EA	\$292.20	\$91,166.40

EVALUATION TABULATION
IFB No. 23-009 (CI2309)
Concrete Improvements - Court Street

Selected	Line Item	Description	Quantity	Unit of Measure	Sunland Asphalt & Construction, LLC	
					Unit Cost	Total
X	16	Install Tactile Band 24"x30"	32	EA	\$329.70	\$10,550.40
X	17	Install Class 6 Base Materials (Place and Compact)	71	Ton	\$77.04	\$5,469.84
X	18	Mobilization	1	LS	\$87,177.34	\$87,177.34
X	19	Traffic Control	1	LS	\$60,000.00	\$60,000.00
X	20	Erosion and Sediment Control	1	LS	\$15,625.00	\$15,625.00
Total						\$693,761.3786

VENDOR QUESTIONNAIRE PASS/FAIL

Question Title	Baha Construction, Inc.	Doug Vaughn, LLC	Great Land Concrete work & Landscaping INC	JARCCO Construction LLC	Pyramid Construction, Inc.	RMRM INC Business enviornments	Sunland Asphalt & Construction, LLC
BID GUARANTEE	Pass	Pass	Pass	Pass	Pass	No Response	Pass
CONFIRMATION OF UNDERSTANDING AND OFFER	Pass	Pass	Pass	Pass	Pass	No Response	Pass
NAME, TITLE, and CONTACT INFORMATION	Pass	Pass	Pass	Pass	Pass	No Response	Pass
ACKNOWLEDGEMENTS							

EVALUATION TABULATION
IFB No. 23-009 (CI2309)
Concrete Improvements - Court Street

Question Title	Baha Construction, Inc.	Doug Vaughn, LLC	Great Land Concrete work & Landscaping INC	JARCCO Construction LLC	Pyramid Construction, Inc.	RMRM INC Business enviornments	Sunland Asphalt & Construction, LLC
AFFIRMATIVE ACTION PLAN REQUIREMENT:	Pass	Pass	Pass	Pass	Pass	No Response	Pass
COLORADO LABOR REQUIREMENT:	Pass	Pass	Pass	Pass	Pass	No Response	Pass
SALES AND/OR USE TAX INFORMATION	Pass	Pass	Pass	Pass	Pass	No Response	Pass
Has/is this firm or any officer or partner of this firm:							
Convicted of a criminal offense	Pass	Pass	Pass	Pass	Pass	No Response	Pass
Convicted under state or federal statutes	Pass	Pass	Pass	Pass	Pass	No Response	Pass
Convicted under state or federal antitrust statutes	Pass	Pass	Pass	Pass	Pass	No Response	Pass
Failed to perform	Pass	Pass	Pass	Pass	Pass	No Response	Pass
Suspension or Debarment	Pass	Pass	Pass	Pass	Pass	No Response	Pass
Unqualified	Pass	Pass	Pass	Pass	Pass	No Response	Pass
Unlicensed	Pass	Pass	Pass	Pass	Pass	No Response	Pass
Delinquent	Pass	Pass	Pass	Pass	Pass	No Response	Pass
Confirmation	Pass	Pass	Pass	Pass	Pass	No Response	Pass



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

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 \$395,853 TO A-1 CHIPSEAL CO., FOR PROJECT NO. 23-057, ASPHALT IMPROVEMENTS - CRESTVIEW HILLS, SETTING FORTH \$59,378 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a resolution awarding a Construction Contract to A-1 Chipseal Co., for Project No. 23-057, Asphalt Improvements - Crestview Hills.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

In general, this project will consist of asphalt patching, crack sealing, infrared asphalt treatment and asphalt slurry sealing to various streets in the Crestview Hills Neighborhood. This resolution awards the construction contract to A-1 Chipseal Co.

FINANCIAL IMPLICATIONS:

Funding (including contingencies) in the amount of \$455,231.00 will be paid from Project account CI2309 Road & Street Repairs.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this resolution will cancel this project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 23-057 Bid Summary - Asphalt Improvements-Crestview Hills

RESOLUTION NO. 15186

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$395,853 TO A-1 CHIPSEAL CO., FOR PROJECT NO. 23-057, ASPHALT IMPROVEMENTS - CRESTVIEW HILLS, SETTING FORTH \$59,378 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for Project No. 23-057, Asphalt Improvements - Crestview Hills have been received and examined; and,

WHEREAS, the proposal of A-1 Chipseal Co., 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. 23-057, Asphalt Improvements - Crestview Hills to be performed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The City Council authorizes Project No. 23-057, Asphalt Improvements - Crestview Hills, to be performed, and the contract for said project is hereby awarded to A-1 Chipseal Co., in the amount of \$395,853.00.

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.....\$59,378.00

SECTION 4.

Funds for Project No. 23-057 (including contingencies and additional work) shall be from Project account CI2309, Road & Street Repairs.

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.

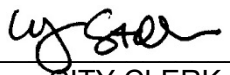
SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



City of Pueblo

Purchasing

Naomi Hedden, Director

230 S. Mechanic St., Pueblo, CO 81003

EVALUATION TABULATION

IFB No. 23-057 (CI2309)

Asphalt Improvements - Crestview Hills

RESPONSE DEADLINE: March 29, 2023 at 10:00 am

Report Generated: Wednesday, March 29, 2023

SELECTED VENDOR TOTALS

Vendor	Total
A-1 Chipseal Co.	\$395,853.00

BASE BID

					A-1 Chipseal Co.	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
X	1	Crack Sealing	750	Lbs	\$2.95	\$2,212.50
X	2	Asphalt Slurry Seal - Type II	106285	SY	\$3.30	\$350,740.50
X	3	Infrared Asphalt Repair	6	EA	\$225.00	\$1,350.00
X	4	Remove Asphalt Roadway	250	SF	\$13.00	\$3,250.00
X	5	Install Class 6 Base Material (Place and Compact)	20	TON	\$300.00	\$6,000.00
X	6	Asphalt Patching 3" HMA PG 64-22	250	SF	\$16.00	\$4,000.00
X	7	Vehicle Towing Allowance	1	EA	\$300.00	\$300.00

EVALUATION TABULATION
IFB No. 23-057 (CI2309)
Asphalt Improvements - Crestview Hills

Selected	Line Item	Description	Quantity	Unit of Measure	A-1 Chipseal Co.	
					Unit Cost	Total
X	8	Erosion and Sediment Control	1	LS	\$500.00	\$500.00
X	9	Traffic Control	1	LS	\$10,000.00	\$10,000.00
X	10	Mobilization	1	LS	\$17,500.00	\$17,500.00
Total						\$395,853.00

VENDOR QUESTIONNAIRE PASS/FAIL

Question Title	A-1 Chipseal Co.
BID GUARANTEE	Pass
CONFIRMATION OF UNDERSTANDING AND OFFER	Pass
NAME, TITLE, and CONTACT INFORMATION	Pass
ACKNOWLEDGEMENTS	
AFFIRMATIVE ACTION PLAN REQUIREMENT:	Pass
COLORADO LABOR REQUIREMENT:	Pass
SALES AND/OR USE TAX INFORMATION	Pass
Has/is this firm or any officer or partner of this firm:	
Convicted of a criminal offense	Pass
Convicted under state or federal statutes	Pass
Convicted under state or federal antitrust statutes	Pass
Failed to perform	Pass

EVALUATION TABULATION
IFB No. 23-057 (CI2309)
Asphalt Improvements - Crestview Hills

Question Title	A-1 Chipseal Co.
Suspension or Debarment	Pass
Unqualified	Pass
Unlicensed	Pass
Delinquent	Pass
Confirmation	Pass



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

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 \$272,082.40 TO A-1 CHIPSEAL CO., FOR PROJECT NO. 23-056, ASPHALT IMPROVEMENTS - REGENCY CREST, SETTING FORTH \$40,812.60 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a resolution awarding a construction contract to A-1 Chipseal Co., for Project No. 23-056, Asphalt Improvements - Regency Crest.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

In general, this project will consist of asphalt repairs, crack sealing, mastic sealing, infrared sealing and 1/4" asphalt chip seal in the Regency Crest Neighborhood. This resolution awards the construction contract to A-1 Chipseal Co.

FINANCIAL IMPLICATIONS:

Funding (including contingencies) in the amount of \$312,895.00 will be paid from Project account CI2309 Road & Street Repairs.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this resolution will cancel this project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 23-056 Bid Summary - Asphalt Improvements-Regency Crest

RESOLUTION NO. 15187

A RESOLUTION AWARDDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$272,082.40 TO A-1 CHIPSEAL CO., FOR PROJECT NO. 23-056, ASPHALT IMPROVEMENTS - REGENCY CREST, SETTING FORTH \$40,812.60 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for Project No. 23-056, Asphalt Improvements - Regency Crest have been received and examined; and,

WHEREAS, the proposal of A-1 Chipseal Co., 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. 23-056, Asphalt Improvements - Regency Crest to be performed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The City Council authorizes Project No. 23-056, Asphalt Improvements - Regency Crest, to be performed, and the contract for said project is hereby awarded to A-1 Chipseal Co., in the amount of \$272,082.40.

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.....\$40,812.60

SECTION 4.

Funds for Project No. 23-056 (including contingencies and additional work) shall be from Project account CI2309, Road & Street Repairs.

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.

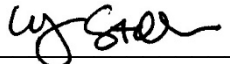
SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



City of Pueblo

Purchasing

Naomi Hedden, Director

230 S. Mechanic St., Pueblo, CO 81003

EVALUATION TABULATION

IFB No. 23-056 (CI2309)

Asphalt Improvements - Regency Crest

RESPONSE DEADLINE: March 29, 2023 at 10:30 am

Report Generated: Wednesday, March 29, 2023

SELECTED VENDOR TOTALS

Vendor	Total
A-1 Chipseal Co.	\$272,082.40

BASE BID

					A-1 Chipseal Co.	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
X	1	Crack Sealing	500	Lbs	\$2.95	\$1,475.00
X	2	Infrared Asphalt Repair	6	EA	\$225.00	\$1,350.00
X	3	Mastic Patching	1000	Lbs	\$3.65	\$3,650.00
X	4	Remove Asphalt Roadway	1000	SF	\$13.00	\$13,000.00
X	5	Install Class 6 Base Material (Place and Compact)	50	Ton	\$300.00	\$15,000.00
X	6	Asphalt Patching 3 inch HMA PG 64-22	1000	SF	\$16.00	\$16,000.00
X	7	1/4" Asphalt Chip Seal	43404	SY	\$4.35	\$188,807.40

EVALUATION TABULATION
 IFB No. 23-056 (CI2309)
 Asphalt Improvements - Regency Crest

Selected	Line Item	Description	Quantity	Unit of Measure	A-1 Chipseal Co.	
					Unit Cost	Total
X	8	Vehicle Towing Allowance	1	EA	\$300.00	\$300.00
X	9	Erosion and Sediment Control	1	LS	\$500.00	\$500.00
X	10	Traffic Control	1	LS	\$17,000.00	\$17,000.00
X	11	Mobilization	1	LS	\$15,000.00	\$15,000.00
Total						\$272,082.40

VENDOR QUESTIONNAIRE PASS/FAIL

Question Title	A-1 Chipseal Co.
BID GUARANTEE	Pass
CONFIRMATION OF UNDERSTANDING AND OFFER	Pass
NAME, TITLE, and CONTACT INFORMATION	Pass
ACKNOWLEDGEMENTS	
AFFIRMATIVE ACTION PLAN REQUIREMENT:	Pass
COLORADO LABOR REQUIREMENT:	Pass
SALES AND/OR USE TAX INFORMATION	Pass
Has/is this firm or any officer or partner of this firm:	
Convicted of a criminal offense	Pass
Convicted under state or federal statutes	Pass

EVALUATION TABULATION
IFB No. 23-056 (CI2309)
Asphalt Improvements - Regency Crest

Question Title	A-1 Chipseal Co.
Convicted under state or federal antitrust statutes	Pass
Failed to perform	Pass
Suspension or Debarment	Pass
Unqualified	Pass
Unlicensed	Pass
Delinquent	Pass
Confirmation	Pass



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Steven Meier, Director of Parks and Recreation

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) FROM PROJECT CI2113 – AMERICAN RESCUE PLAN ACT FOR A GOVERNMENTAL PROJECT TO CONSTRUCT A RAMP TO THE RENOVATED BARKMAN BRANCH LIBRARY WHICH IS IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND TO MAKE IMPROVEMENTS TO AN ADJACENT PARKING LOT AND TO BUILD A PEDESTRIAN BRIDGE ADJACENT TO THE LIBRARY, AS AUTHORIZED BY SECTION 603(C)(1)(C) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

SUMMARY:

This Resolution authorizes payment not to exceed \$250,000.00 from Project CI2113 American Rescue Plan Act (“ARPA”) for a government project to build a ramp to the renovated Barkman Branch Library which is in compliance with the Americans with Disabilities Act and to make improvements to an adjacent parking lot and to construct a pedestrian bridge which is adjacent to the library (hereinafter “Project”). This payment is authorized by section 603 (c)(1)(C) of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6.

PREVIOUS COUNCIL ACTION:

City Council has previously approved the expenditure of ARPA Revenue Replacement/ Government Services funds for other government projects.

BACKGROUND:

ARPA authorizes a revenue replacement calculation which allows local governments to use a portion of their total ARPA allocation for government services. Under ARPA, the City’s lost revenue as a result of the COVID-19 pandemic has been calculated to be \$10 million.

Under the attached proposed Resolution, ARPA funds will be used to construct an ADA-compliant ramp to the renovated Barkman Branch Library and to make improvements to an adjacent parking lot and to build a pedestrian bridge which is adjacent to the library. The pedestrian bridge will give library patrons access to an outdoor space in a City-owned park, to allow social distancing and thereby prevent the spread of new variants of the COVID-19 virus.

FINANCIAL IMPLICATIONS:

Funding in the amount of \$250,000 is available and will be paid out of Project CI2113 – American Rescue Plan Act.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

City Council could decide not to authorize payment of ARPA funds for this project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15188

A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) FROM PROJECT CI2113 – AMERICAN RESCUE PLAN ACT FOR A GOVERNMENTAL PROJECT TO CONSTRUCT A RAMP TO THE RENOVATED BARKMAN BRANCH LIBRARY WHICH IS IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND TO MAKE IMPROVEMENTS TO AN ADJACENT PARKING LOT AND TO BUILD A PEDESTRIAN BRIDGE ADJACENT TO THE LIBRARY, AS AUTHORIZED BY SECTION 603(C)(1)(C) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

WHEREAS, the American Rescue Plan Act (“ARPA”) authorizes a revenue replacement calculation which allows local governments to use a portion of their total ARPA allocation for government services. Under ARPA, the City’s lost revenue as a result of the COVID-19 pandemic has been calculated to be \$10 million; and

WHEREAS, under this Resolution, ARPA funds will be used to construct an ADA-compliant ramp to the renovated Barkman Branch Library and to make improvements to an adjacent parking and to build a pedestrian bridge which is adjacent to the library. The pedestrian bridge will give library patrons access to an outdoor space in a City-owned park, to allow social distancing and thereby prevent the spread of new variants of the COVID-19 virus; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The transfer of funds in the amount of \$250,000.00 is hereby authorized from Project CI2113 – American Rescue Plan Act to construct an ADA-compliant ramp to the renovated Barkman Branch Library and to build a pedestrian bridge which is adjacent to the library.

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 herein.

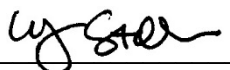
SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Barb Huber, Fire Chief

SUBJECT: A RESOLUTION TRANSFERRING .04 FROM CI1702, \$4,759.67 FROM CI1802, \$17,262.95 FROM CI1823, \$7687.75 FROM CI1904, \$9315.71 FROM CI2001, \$115,000 FROM CI2101, \$32,000 FROM CI2102, \$28,191.00 FROM CI2114, TOTALING \$214,217.80 INTO PROJECT NO. CI2304 FOR THE PURPOSES OF CAPITAL IMPROVEMENT PURCHASES OF 3 APPARATUS

SUMMARY:

This Resolution transfers money from completed projects into the capital improvement project for the purchase of 3 apparatus for the fire department.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The City of Pueblo Fire department put out to RFP for 3 apparatus, 2 aerial and 1 engine. The original budget was set at \$3.6 million. An additional \$200,000 is needed to complete the purchase. This transfer will provide the remainder needed.

FINANCIAL IMPLICATIONS:

Not applicable.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

Unless award of the contract is approved, this project will not be completed.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15189

A RESOLUTION TRANSFERRING .04 FROM CI1702, \$4,759.67 FROM CI1802, \$17,262.95 FROM CI1823, \$7687.75 FROM CI1904, \$9315.71 FROM CI2001, \$115,000 FROM CI2101, \$32,000 FROM CI2102, \$28,191.00 FROM CI2114, TOTALING \$214,217.80 INTO PROJECT NO. CI2304 FOR THE PURPOSES OF CAPITAL IMPROVEMENT PURCHASES OF 3 APPARATUS

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Funds in the amount of \$214, 217.80 are hereby transferred, in the amounts shown below, into Project No. CI2304, and budgeted and appropriated for said Project.

CI1702 - .04¢
CI1802 - \$4,759.67
CI1823 - \$17,262.95
CI1904 - \$7,687.75
CI2001 - \$9,315.71
CI2101 - \$115,000.00
CI2102 - \$32,000.00
CI2114 - \$28,191.64

SECTION 2.

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

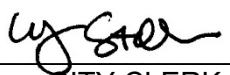
SECTION 3.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: April 10, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$77,701.95 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 13 BRUCE LN, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

SUMMARY:

This Resolution ratifies and approves award of a construction contract to Parker Excavating, Inc. for emergency sanitary sewer point repairs at 13 Bruce Ln.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

On January 13, 2023, the Wastewater Department collection crew televised the sewer main due to a blockage in the street near 13 Bruce Ln and they discovered three large root balls taking up 100% of the pipe section. After cutting these root balls out, they also discovered large roots breaking through at the joints throughout the sewer main and a broken pipe segment with a large hole at the end of the main. These defects will further deteriorate the pipe, block the flow and increase the chance of collapse and immediate backup in the main. An emergency repair was necessary to repair these defects, so a backup would not occur.

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

The cost breakdown for the project is as follows:

Sanitary Sewer Replacement-related

<i>Total:</i>	\$	52,005.45	67%
----------------------	----	-----------	-----

Surface Improvement Related

<i>Total:</i>	\$	25,696.50	33%
----------------------	----	-----------	-----

<i>Grand Total:</i>	\$	77,701.95	100%
----------------------------	----	-----------	------

FINANCIAL IMPLICATIONS:

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

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

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

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 4-10-23 13 Bruce Ln Emergency Point Repair Attachment

RESOLUTION NO. 15190

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$77,701.95 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 13 BRUCE LN, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

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

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

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council ratifies and approves the contract for repair of the sanitary sewers at 13 Bruce Ln with Parker Excavating, Inc., Project No. 20-059 (WWAN03) awarded to said bidder in the amount of \$77,701.95.

SECTION 2.

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

SECTION 3.

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

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution and the contract to effectuate the transactions described therein. Furthermore, all actions previously taken by officers and staff of the City consistent with the contract including any payments authorized under the contract and the contract change order in the amount of \$22,377.95 are hereby ratified.

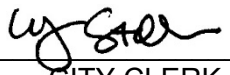
SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

2021-2023 Emergency Sanitary Sewer Point Repair					13 Bruce Ln Estimate		
Date: 1/30/2023					K.R. Swerdfeger Construction, Inc.	FRPHI ECS & Landscape, Inc.	Parker Excavating, Inc.
Project Number: 20-059 (WWAN03)							
Item	Description	Estimated					
1	Remove and Replace 8" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF	176	\$ 23,408.00	\$ 57,024.00	\$ 17,248.00
2	Remove and Replace 8" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
3	Remove and Replace 10" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
4	Remove and Replace 10" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
5	Remove and Replace 12" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
6	Remove and Replace 12" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
7	Remove and Replace 15" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
8	Remove and Replace 15" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
9	Remove and Replace 4" Service Tap Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
10	Remove and Replace 4" Service Tap More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
11	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF	196	\$ 12,740.00	\$ 12,152.00	\$ 14,504.00
12	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
13	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
14	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
15	Remove and Replace 7" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
16	Remove and Replace 6" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
17	Remove and Replace 4" Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
18	Remove and Replace Standard Curb and Gutter	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
19	Install Extra Lean Concrete (FlowFill)	1-20	CY		\$ -	\$ -	\$ -
		21-100	CY	70	\$ 11,550.00	\$ 17,850.00	\$ 11,690.00
		>100	CY		\$ -	\$ -	\$ -
20	Remove Camera/Cleaning Head/Tap Cutter	HR			\$ -	\$ -	\$ -
21	Remove and Replace 48" Diameter Manhole	EA	2		\$ 8,000.00	\$ 12,200.00	\$ 8,680.00
22	Remove and Replace 60" Diameter Manhole	EA			\$ -	\$ -	\$ -
23	Reinstate Services	EA	4		\$ 1,200.00	\$ 600.00	\$ 1,552.00
24	Mobilization	LS	1		\$ 1,500.00	\$ 1,750.00	\$ 1,650.00
				Total	\$ 58,398.00	\$ 101,576.00	\$ 55,324.00
				With Contingency	\$ 70,077.60	\$ 121,891.20	\$ 66,388.80

CONTRACT CHANGE ORDER

CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS

Project Number : 20-059 (WWAN03)

Change Order No. : ONE

3/13/2023

Page 1 of 1

Project Name : 2021, 2022 and 2023 Sanitary Sewer Point Repair
13 Bruce Ln

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

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

Bid Item No.	Description of Changes	Decrease Contract By	Increase Contract By
1	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (>100LF)		\$6,958.00
2	ASPHALT PATCH – 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE (>100LF)		\$11,192.50
3	INSTALL EXTRA LEAN CONCRETE (FLOWFILL) (21-100CY)		\$835.00
5	REINSTATE SERVICES		\$1,552.00
7	TRAFFIC CONTROL		\$1,840.45
TOTAL (Decrease) / Increase		\$0.00	\$22,377.95

Net Adjustment This Change Order	\$	22,377.95
Amount of Previous Change Order(s)	\$	0.00
Original Contract Amount	\$	55,324.00
Total Adjusted Contract Amount To Date	\$	77,701.95

Reason For Change: Actual Field Quantities.
Extra work added from upstream main.

The time provided for completion of the contract is changed by 0 calendar days.

This document shall become an amendment to the contract and all provisions of the contract apply hereto.

Prepared by: _____ Date: _____

Associate Engineer II

Reviewed by: _____ Date: _____

Wastewater Engineering Manager

Accepted by: _____ Date: _____

Contractor's Representative

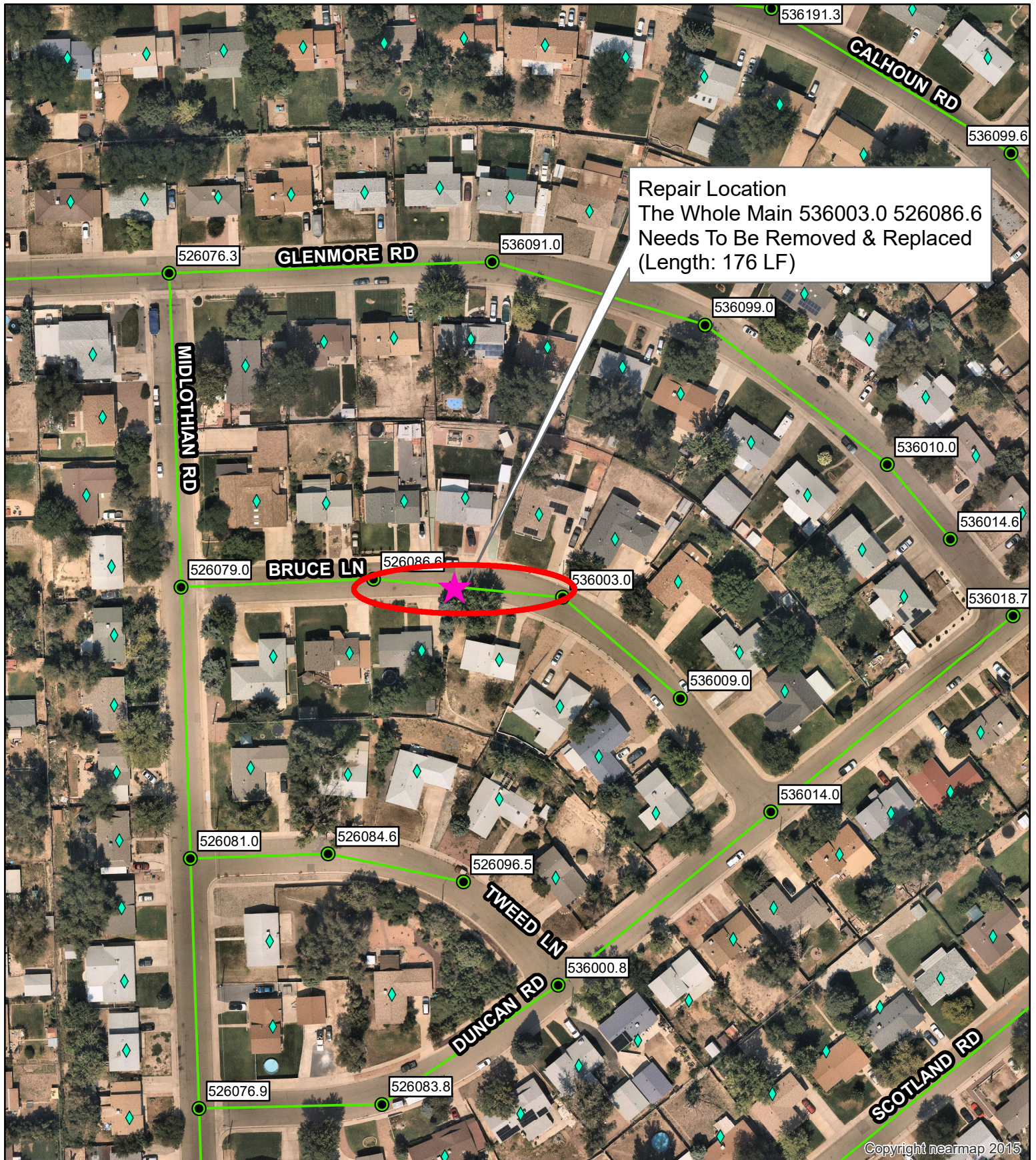
If this Change Order causes an increase from the original contract price, signed approval by the Director constitutes representation that lawful appropriations are sufficient to cover such increase.

Approved by: _____ Date: _____

Director of Wastewater



20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
13 Bruce Ln





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

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 CHANGE ORDER IN THE AMOUNT OF \$11,948.07 TO PARKER EXCAVATING, INC., FOR PROJECT NO. 23-044, WEST 31ST STREET AT WILDHORSE CREEK - EMERGENCY REPAIR, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

This Resolution awards a change order in the amount of \$11,948.07 to Parker Excavating, Inc., for Project No. 23-044 West 31st Street at Wild Horse Creek - Emergency Repair.

PREVIOUS COUNCIL ACTION:

Resolution 15134, dated February 13, 2023, ratified and approved the award of an emergency construction contract to Parker Excavating, Inc., for Project No. 23-044 West 31st Street at Wild Horse Creek - Emergency Repair.

BACKGROUND:

On December 13, 2022, the City of Pueblo Public Works Department received an Essential Repair Letter (ERL) from the Colorado Department of Transportation (CDOT) for URGENT priority repairs needed on the bridge at West 31st Street over the Wild Horse Creek. CDOT uses a third-party engineering firm (Stantec) to annually inspect all City of Pueblo bridges and culverts within the CDOT inspection program. There are approximately 41 city bridges and major culverts that are enrolled in this inspection program. In the most recent inspection, conducted on December 6, 2022, Stantec found that the approach sidewalk just northwest of the culvert is severely undermined and has caused the curb and gutter and sidewalk to settle. This settling is preventing storm water drainage from flowing properly to the inlets. Water is overflowing the sidewalk and eroding the embankment, further exacerbating the settling and undermining of the sidewalk.

The project consisted of replacing the settled sidewalk along with the curb and gutter sections to return them to the correct elevations, filling in the void areas under the sidewalk, repairs to the roadway, and stabilizing the embankment.

This Resolution increases the contract amount to Parker Excavating, Inc., due to excavation of the subgrade soils that were saturated and soft, requiring stabilization with Geogrid Material Perforated paper and extra flowable fill material.

FINANCIAL IMPLICATIONS:

Funding in the amount of \$11,948.07 will be paid from account CI2309, Road & Street Repairs.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Not approving this Resolution would require a finding that there was not an emergency condition.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Contract Change Order

RESOLUTION NO. 15191

A RESOLUTION AWARDED A CHANGE ORDER IN THE AMOUNT OF \$11,948.07 TO PARKER EXCAVATING, INC., FOR PROJECT NO. 23-044, WEST 31ST STREET AT WILDHORSE CREEK - EMERGENCY REPAIR, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, an emergency City improvement contract was requested by the Director of Public Works and authorized by the Mayor in accordance with Section 1-10-5 of the Pueblo Municipal Code for Project 23-044, West 31st Street at Wild Horse Creek - Emergency Repair; and,

WHEREAS, the proposal of Parker Excavating, 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. 23-044, West 31st Street at Wild Horse Creek - Emergency Repair to be performed; and,

WHEREAS, an emergency construction contract to complete the bridge repair was there upon awarded to Parker Excavating, Inc., under Contract Number 23-044; and,

WHEREAS, additional work was completed to mitigate saturated and soft subgrade soils; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

This change order to the Emergency Concrete Agreement for West 31st Street at Wild Horse Creek with Parker Excavating, Inc., Project No. 23-044, West 31st Street at Wild Horse Creek - Emergency Repair project in the amount of \$11,948.07 is for additional subgrade stabilization.

SECTION 2.

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

SECTION 3.

Funds for Project 23-044 shall be from Project No. C12309, Road & Street Repairs.

SECTION 4.

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

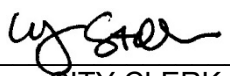
SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

City Of Pueblo

Contract Change Order

Department Of Public Works

Project Number : 23-044**Change Order No. :** 1**Date:** March 24, 2023**Project Name :** Emergency Repairs to 31st at Wildhorse Creek**Contractor :** Parker Excavating Inc .

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

Bid Item No.	Description of Changes	Decrease Contract By	Increase Contract By
1	More Material to finish the job		\$11,948.07
TOTAL		\$0.00	\$11,948.07

Net Adjustment This Change Order	\$	11948.07
Amount of Previous Change Order(s)	\$	20000.00
Original Contract Amount	\$	48774.20
Total Adjusted Contract Amount To Date	\$	80722.27

Reason For Change:

After excavation of the road the subgrade soils were saturated and soft requiring stabilization.

The time provided for completion of the contract is increased by three (3) days.

This document shall become an amendment to the contract and all provisions of the contract apply hereto. The adjustment to the contract amount and contract time, if any, made by this change order constitutes full compensation to the Contractor for the work included within this change order, and Contractor's acceptance hereof constitutes a waiver of any contract and equitable claims on account thereof.

Prepared by: Lisa Pate Date: 3/24/2023 | 11:26 AM MDT
88F3BE5A685E448 DocuSigned by: Associate Field Engineer

Reviewed by: Charles E Roy Date: 3/24/2023 | 1:11 PM MDT
3DBB3F0708AB45D... DocuSigned by: Construction Engineer

Accepted by: Greg Parker Date: 3/27/2023 | 11:27 AM PDT
1ED8C24A2EFC4D5... DocuSigned by: Contractor's Representative

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

Approved by: _____ Date: _____
 Director of Public Works



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

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 AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO COLORADO STATE UNIVERSITY - PUEBLO (CSU-PUEBLO) FOR USE OF THE PUBLIC RIGHT-OF-WAY ALONG RAWLINGS AVENUE TO FACILITATE THE CSU-PUEBLO GRADUATION CEREMONY ON SATURDAY, MAY 13, 2023.

SUMMARY:

Attached is a draft revocable permit for Colorado State University - Pueblo (CSU-Pueblo) to utilize the public right-of-way along Rawlings Avenue between Troy Avenue and the CSU-Pueblo campus boundary for the purpose of controlling traffic during the CSU-Pueblo Graduation Ceremony scheduled for Saturday, May 13, 2023.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Colorado State University-Pueblo (CSU-Pueblo) will be hosting its spring graduation ceremony at the Thunder Bowl on the morning of Saturday, May 13, 2023. In the past, CSU-Pueblo has held multiple ceremonies, but they are planning for a single ceremony with approximately 12,000 people in attendance. CSU-Pueblo has requested the issuance of a revocable permit for the use of Rawlings Avenue from 5:00 A.M. - 11:00 A.M. on the day of the event.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

The Revocable Permit Review Committee recommends approval.

STAKEHOLDER PROCESS:

Businesses and organizations located in the affected area of Rawlings Avenue have been notified of the event and have indicated no concerns related to the proposed road closure. Emergency vehicle access will not be affected during this closure.

ALTERNATIVES:

Failure to approve the Resolution will prevent the applicant from being able to implement their planned traffic routing during the event.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Revocable Permit - CSU Pueblo (REV-23-6)

RESOLUTION NO. 15192

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO COLORADO STATE UNIVERSITY - PUEBLO (CSU-PUEBLO) FOR USE OF THE PUBLIC RIGHT-OF-WAY ALONG RAWLINGS AVENUE TO FACILITATE THE CSU-PUEBLO GRADUATION CEREMONY ON SATURDAY, MAY 13, 2023.

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The attached Revocable Permit is authorized to be issued to Colorado State University - Pueblo, for use of the Rawlings Avenue right-of-way to facilitate its graduation ceremony.

SECTION 2.

The use of the public right-of-way granted hereby is subject to all limitations, terms, and conditions set forth in the attached Revocable Permit.

SECTION 3.

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

SECTION 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

REVOCABLE PERMIT

Pursuant to the authority granted by Section 16-9 of the Charter of Pueblo, a Municipal Corporation, (the "City"), the City Council of City hereby grants the following revocable permit to Permittee subject to and conditioned upon the provisions herein contained and the Permittee's compliance therewith:

1. Name, Address and Telephone Number of Permittee: **Colorado State University Pueblo 2200 Bonforte Ave.; Pueblo, CO 81001 719-543-2373 2200 Bonforte Ave.; Pueblo, CO 81001**
2. Permitted Area: **Rawlings Avenue between Thunderwolf Drive and Troy Avenue**
3. Purpose of Revocable Permit: **Road closure to facilitate graduation ceremony**
4. Commencement Date: **May 13, 2023** Time: **5:00 AM**
5. Ending Date: **May 13, 2023** Time: **11:00 AM**

PERMITTEE IN CONSIDERATION OF THE ISSUANCE AND GRANTING OF THE ABOVE DESCRIBED REVOCABLE PERMIT (THE "PERMIT") REPRESENTS, WARRANTS AND AGREES:

(a) The Permitted Area shall be used for the above-specified Purpose of Revocable Permit. No use of the Permitted Area shall be made before the time of the Commencement Date.

(b) All structures, fences, tables, chairs, equipment or other improvements authorized to be placed in the Permitted Area by Permittee (the "Improvements") shall be constructed, installed, and maintained by Permittee in compliance with all applicable codes, ordinances, rules and regulations of City and this Permit.

(c) If the Revocable Permit is issued for a sidewalk café, the Permittee and sidewalk café shall be subject to all the provisions, conditions and requirements contained in section 9-10-84 of the Pueblo Municipal Code, or as same may be amended, which are incorporated herein by reference. In addition, no Improvement shall be tied-down or chained to any tree within or adjacent to the Permitted Area nor shall any Improvement be installed or located in such a manner as to hinder or interfere with the opening of motor vehicle doors or passenger movement to and from motor vehicles parked adjacent to or near the Permitted Area.

(d) If this Permit is issued for the use of the public right-of-way for a special event, Permittee shall deposit with the City the sum of \$500.00 ("Deposit"). The Deposit will be forfeited to the City if Permittee does not remove all Permittee's equipment and property from, and clean and restore the Permitted Area to its original condition before the Time of the Ending Date. If so timely removed and cleaned, the Deposit will be returned to Permittee.

(e) Before the Time of the Ending Date, or immediately upon any other termination of this Permit, Permittee shall, at Permittee's expense, remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition. Failure to timely remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition shall constitute Permittee's abandonment of the Permittee's Improvements, and City may, at Permittee's expense, remove and dispose of Permittee's Improvements and clean and restore the Permitted Area to its original condition. Permittee agrees to pay all City's costs and expenses, including reasonable attorney fees, incurred in the enforcement of this Permit.

(f) Permittee shall keep all Improvements and Permitted Area in good, clean and safe condition and repair, free from litter, waste and debris.

(g) Permittee shall indemnify, defend and hold City, its officers, agents and employees harmless from and against any and all suits, claims, liabilities, loss, damages and expenses, including reasonable attorney fees and cost of defense, arising, directly or indirectly, from or caused by the issuance of this Permit or the conditions hereof, or the existence, construction, installation, repair or maintenance of the Improvements in the Permitted Area, or the use of the Permitted Area or Improvements by Permittee, its officers, agents, employees, invitees or general public.

(h) Neither this Permit nor any of the privileges granted to Permittee hereby, may be conveyed, assigned, transferred or sublet by Permittee without the prior written consent of the City Council of City. Any attempted conveyance, assignment, transfer or subletting of the Permit or Permitted Area without the written consent of the City Council of Pueblo shall be void and of no effect and shall cause this Permit to be automatically revoked.

(i) Permittee shall keep and maintain commercial general liability insurance covering the Permitted Area and Improvements in amounts not less than \$1,000,000.00 combined single limits per occurrence and aggregate, naming the City as an additional insured and contain a waiver of rights of subrogation against City. A certificate for such insurance and each renewal thereof shall be delivered to the City. Failure to maintain such insurance shall cause this Permit to be automatically revoked.

(j) Trees, landscaping and shrubbery within or adjacent to the Permitted Area shall be protected from damage or injury by Permittee and shall not be removed except after receipt by the Permittee of the written consent of the City's Director of Parks and Recreation. Covid-19

(k) Any notice or other document required or permitted herein shall be in writing and delivered personally or by first class mail, postage prepaid, as follows:

(i) If to Permittee, at the address shown in paragraph 1 above.

(ii) If to City, 1 City Hall Place, Pueblo, Colorado, 81003, Attention: Revocable Permit Review Committee. Each party reserves the right to change its address provided notice of such change is given in accordance with this paragraph (k).

(l) City reserves and is hereby granted by Permittee access to, under and through the Permitted Area for any and all purposes. City may injure, damage or remove any and all Permittee's Improvements in the Permitted Area in exercising the right of access hereby reserved and granted. Permittee assumes the risk of injury, loss and damage to Permittee's Improvements within the Permitted area, and City shall have no responsibility or liability for any damage or injuries thereto, whatsoever the cause, including, but not limited to, the acts or omissions of City, its officers, employees, or agents.

(m) This Permit shall terminate upon the occurrence of any one of the following events: (i) the Time of the Ending Date, (ii) abandonment or nonuse by Permittee for a period of three (3) consecutive months, (iii) surrender or cancellation of the Permit in writing by Permittee, (iv) automatic revocation as provided in paragraphs (h) and (i) above; (v) revocation or termination of this Permit by resolution of the City Council of City; or (vi) revocation by the Mayor as provided in paragraph (p). The termination of this Permit shall not relieve Permittee from Permittee's obligations under paragraph (f) until the Authorized Improvements have been removed by Permittee in compliance with paragraph (e).

(n) Permittee acknowledges and agrees that this Permit is temporary and subject to revocation or termination by resolution of the City Council of City, in its sole discretion, for any reason or no reason, at anytime, without liability to City, and without notice to or hearing by Permittee. Permittee waives any and all right or claim to such notice, hearing, and liability of the City.

(o) Permittee acknowledges and agree that use of the Permitted Area shall be conducted in compliance with applicable laws and regulations including but not limited orders, regulations and directives issued by the Governor, Colorado Department of Public Health and Environment and the Pueblo County Department of Public Health and Environment with respect to COVID-19 ("COVID-19 Regulations"). Seven days prior to Commencement Date, Permittee shall submit in writing to the Revocable Permit Review Committee those actions Permittee shall take to assure protection of the public health and compliance with COVID-19 Regulations.

(p) Permittee further acknowledges and agrees that this Permit is temporary and subject to revocation or termination if the purpose of the permit or any potential activities to be conducted under the Permit is determined by the Mayor of City, in his sole and absolute discretion, to not be in furtherance of and/or contrary to the public health or welfare due to COVID-19 or related issues. Such determination and termination may be issued at any time, without liability to City, and without notice to or hearing by Permittee. Permittee waives any and all right or claim to such notice, hearing, and liability of the City.

(q) Nothing in this Permit shall be interpreted to limit or prevent the protections afforded to City under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.

Signed in Pueblo, Colorado this _____ day of _____, 20_____.

PERMITTEE:
Organization or Individual: _____
By: _____
Title: _____

STATE OF COLORADO)

COUNTY OF PUEBLO) SS..

The foregoing instrument was acknowledged before me the _____ day of _____, 20_____ by _____ as _____.

My commission expires: _____.

Notary Public

APPROVED this _____ day of _____, 20_____.
PUEBLO, a Municipal Corporation

By _____

Nicholas A. Gradisar, Mayor



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

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 AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO THE HARP FOUNDATION, A COLORADO NONPROFIT CORPORATION, FOR THE USE OF PORTIONS OF ALAN HAMEL DRIVE AND MAIN STREET PUBLIC RIGHT-OF-WAY TO FACILITATE THEIR ANNUAL ROLLIN' 4TH OF JULY FIREWORKS CELEBRATION

SUMMARY:

Attached is a draft of a revocable permit submitted by the HARP Foundation.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The HARP Foundation has submitted a revocable permit application requesting to close Alan Hamel Drive between Santa Fe Avenue and South Union Avenue, and Main Street between "D" Street and City Center Drive in order to facilitate their annual Rollin' 4th of July Fireworks Celebration event. The closures would be in effect from Tuesday, July 4, 2023 at 6:00 A.M. through Wednesday, July 5, 2023 at 6:00 A.M.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

The Revocable Permit Review Committee recommends approval.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Failure to approve the Resolution will prevent the applicant from being able to close roadways necessary to support the fireworks event.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Revocable Permit - HARP Foundation (REV-23-7)

RESOLUTION NO. 15193

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO THE HARP FOUNDATION, A COLORADO NONPROFIT CORPORATION, FOR THE USE OF PORTIONS OF ALAN HAMEL DRIVE AND MAIN STREET PUBLIC RIGHT-OF-WAY TO FACILITATE THEIR ANNUAL ROLLIN' 4TH OF JULY FIREWORKS CELEBRATION

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The attached Revocable Permit is authorized to be issued to the HARP Foundation, for use of portions of Main Street and Alan Hamel Drive public rights-of-way to facilitate the annual Rollin' 4th of July Fireworks Celebration event.

SECTION 2.

The use of the public right-of-way granted hereby is subject to all limitations, terms, and conditions set forth in the attached Revocable Permit.

SECTION 3.

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.

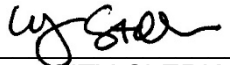
SECTION 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

REVOCABLE PERMIT

Pursuant to the authority granted by Section 16-9 of the Charter of Pueblo, a Municipal Corporation, (the "City"), the City Council of City hereby grants the following revocable permit to Permittee subject to and conditioned upon the provisions herein contained and the Permittee's compliance therewith:

1. Name, Address and Telephone Number of Permittee: **HARP Foundation 125 Riverwalk Place Pueblo, Colorado 81003 719-595-0242**
2. Permitted Area: **Alan Hamel between South Union Avenue and Santa Fe Avenue, and Main Street between D Street and 1st Street**
3. Purpose of Revocable Permit: **Street closure to facilitate the annual Rollin' 4th of July fireworks event**
4. Commencement Date: **July 4, 2023** Time: **6:00 AM**
5. Ending Date: **July 5, 2023** Time: **6:00 AM**

PERMITTEE IN CONSIDERATION OF THE ISSUANCE AND GRANTING OF THE ABOVE DESCRIBED REVOCABLE PERMIT (THE "PERMIT") REPRESENTS, WARRANTS AND AGREES:

- (a) The Permitted Area shall be used for the above-specified Purpose of Revocable Permit. No use of the Permitted Area shall be made before the time of the Commencement Date.
- (b) All structures, fences, tables, chairs, equipment or other improvements authorized to be placed in the Permitted Area by Permittee (the "Improvements") shall be constructed, installed, and maintained by Permittee in compliance with all applicable codes, ordinances, rules and regulations of City and this Permit.
- (c) If the Revocable Permit is issued for a sidewalk café, the Permittee and sidewalk café shall be subject to all the provisions, conditions and requirements contained in section 9-10-84 of the Pueblo Municipal Code, or as same may be amended, which are incorporated herein by reference. In addition, no Improvement shall be tied-down or chained to any tree within or adjacent to the Permitted Area nor shall any Improvement be installed or located in such a manner as to hinder or interfere with the opening of motor vehicle doors or passenger movement to and from motor vehicles parked adjacent to or near the Permitted Area.
- (d) If this Permit is issued for the use of the public right-of-way for a special event, Permittee shall deposit with the City the sum of \$500.00 ("Deposit"). The Deposit will be forfeited to the City if Permittee does not remove all Permittee's equipment and property from, and clean and restore the Permitted Area to its original condition before the Time of the Ending Date. If so timely removed and cleaned, the Deposit will be returned to Permittee.
- (e) Before the Time of the Ending Date, or immediately upon any other termination of this Permit, Permittee shall, at Permittee's expense, remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition. Failure to timely remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition shall constitute Permittee's abandonment of the Permittee's Improvements, and City may, at Permittee's expense, remove and dispose of Permittee's Improvements and clean and restore the Permitted Area to its original condition. Permittee agrees to pay all City's costs and expenses, including reasonable attorney fees, incurred in the enforcement of this Permit.
- (f) Permittee shall keep all Improvements and Permitted Area in good, clean and safe condition and repair, free from litter, waste and debris.
- (g) Permittee shall indemnify, defend and hold City, its officers, agents and employees harmless from and against any and all suits, claims, liabilities, loss, damages and expenses, including reasonable attorney fees and cost of defense, arising, directly or indirectly, from or caused by the issuance of this Permit or the conditions hereof, or the existence, construction, installation, repair or maintenance of the Improvements in the Permitted Area, or the use of the Permitted Area or Improvements by Permittee, its officers, agents, employees, invitees or general public.
- (h) Neither this Permit nor any of the privileges granted to Permittee hereby, may be conveyed, assigned, transferred or sublet by Permittee without the prior written consent of the City Council of City. Any attempted conveyance, assignment, transfer or subletting of the Permit or Permitted Area without the written consent of the City Council of Pueblo shall be void and of no effect and shall cause this Permit to be automatically revoked.
- (i) Permittee shall keep and maintain commercial general liability insurance covering the Permitted Area and Improvements in amounts not less than \$1,000,000.00 combined single limits per occurrence and aggregate, naming the City as an additional insured and contain a waiver of rights of subrogation against City. A certificate for such insurance and each renewal thereof shall be delivered to the City. Failure to maintain such insurance shall cause this Permit to be automatically revoked.
- (j) Trees, landscaping and shrubbery within or adjacent to the Permitted Area shall be protected from damage or injury by Permittee and shall not be removed except after receipt by the Permittee of the written consent of the City's Director of Parks and Recreation. Covid-19
- (k) Any notice or other document required or permitted herein shall be in writing and delivered personally or by first class mail, postage prepaid, as follows:

(i) If to Permittee, at the address shown in paragraph 1 above.

(ii) If to City, 1 City Hall Place, Pueblo, Colorado, 81003, Attention: Revocable Permit Review Committee. Each party reserves the right to change its address provided notice of such change is given in accordance with this paragraph (k).

(l) City reserves and is hereby granted by Permittee access to, under and through the Permitted Area for any and all purposes. City may injure, damage or remove any and all Permittee's Improvements in the Permitted Area in exercising the right of access hereby reserved and granted. Permittee assumes the risk of injury, loss and damage to Permittee's Improvements within the Permitted area, and City shall have no responsibility or liability for any damage or injuries thereto, whatsoever the cause, including, but not limited to, the acts or omissions of City, its officers, employees, or agents.

(m) This Permit shall terminate upon the occurrence of any one of the following events: (i) the Time of the Ending Date, (ii) abandonment or nonuse by Permittee for a period of three (3) consecutive months, (iii) surrender or cancellation of the Permit in writing by Permittee, (iv) automatic revocation as provided in paragraphs (h) and (i) above; (v) revocation or termination of this Permit by resolution of the City Council of City; or (vi) revocation by the Mayor as provided in paragraph (p). The termination of this Permit shall not relieve Permittee from Permittee's obligations under paragraph (f) until the Authorized Improvements have been removed by Permittee in compliance with paragraph (e).

(n) Permittee acknowledges and agrees that this Permit is temporary and subject to revocation or termination by resolution of the City Council of City, in its sole discretion, for any reason or no reason, at anytime, without liability to City, and without notice to or hearing by Permittee. Permittee waives any and all right or claim to such notice, hearing, and liability of the City.

(o) Permittee acknowledges and agree that use of the Permitted Area shall be conducted in compliance with applicable laws and regulations including but not limited orders, regulations and directives issued by the Governor, Colorado Department of Public Health and Environment and the Pueblo County Department of Public Health and Environment with respect to COVID-19 ("COVID-19 Regulations"). Seven days prior to Commencement Date, Permittee shall submit in writing to the Revocable Permit Review Committee those actions Permittee shall take to assure protection of the public health and compliance with COVID-19 Regulations.

(p) Permittee further acknowledges and agrees that this Permit is temporary and subject to revocation or termination if the purpose of the permit or any potential activities to be conducted under the Permit is determined by the Mayor of City, in his sole and absolute discretion, to not be in furtherance of and/or contrary to the public health or welfare due to COVID-19 or related issues. Such determination and termination may be issued at any time, without liability to City, and without notice to or hearing by Permittee. Permittee waives any and all right or claim to such notice, hearing, and liability of the City.

(q) Nothing in this Permit shall be interpreted to limit or prevent the protections afforded to City under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.

Signed in Pueblo, Colorado this _____ day of _____, 20_____.

PERMITTEE:
Organization or
Individual: _____
By: _____
Title: _____

STATE OF COLORADO)

COUNTY OF PUEBLO) SS..

The foregoing instrument was acknowledged before me the _____ day of _____, 20_____ by _____ as _____.

My commission expires: _____.

Notary Public

APPROVED this _____ day of _____, 20_____.
PUEBLO, a Municipal Corporation

By _____

Nicholas A. Gradisar, Mayor



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

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 AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO YBARRA'S BOXING CLUB, A COLORADO NONPROFIT CORPORATION, FOR THE USE OF THE PUBLIC RIGHT-OF-WAY ON COURT STREET BETWEEN WEST 3RD STREET AND WEST 4TH STREET AND A CITY-OWNED PARKING LOT TO FACILITATE A CINCO DE MAYO BOXING EVENT

SUMMARY:

Attached is a draft of a revocable permit submitted by Ybarra's Boxing Club.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Ybarra's Boxing Club will be hosting an exhibition boxing event on Saturday, May 6, 2023. The club is requesting the use of the public right-of-way in the vicinity of their gym to include Court Street between West 3rd Street and West 4th Street, as well as the City-owned parking lot adjacent to the Pope Block Building. This revocable permit application is one of several concurrent applications related to the event, including a business license application and a liquor license application.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

The Revocable Permit Review Committee recommends approval.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Failure to approve the Resolution will prevent the applicant from using the public right-of-way and parking lot to host the exhibition boxing event.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Revocable Permit - Ybarras Boxing Club (REV-22-38)

RESOLUTION NO. 15194

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO YBARRA'S BOXING CLUB, A COLORADO NONPROFIT CORPORATION, FOR THE USE OF THE PUBLIC RIGHT-OF-WAY ON COURT STREET BETWEEN WEST 3RD STREET AND WEST 4TH STREET AND A CITY-OWNED PARKING LOT TO FACILITATE A CINCO DE MAYO BOXING EVENT

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The attached Revocable Permit is authorized to be issued to Ybarra's Boxing Club, a Colorado Nonprofit Corporation, for use of the Court Street right-of-way between West 3rd Street and West 4th Street and the City-owned parking lot adjacent to the Pope Block Building to host an exhibition boxing event.

SECTION 2.

The use of the public right-of-way granted hereby is subject to all limitations, terms, and conditions set forth in the attached Revocable Permit.

SECTION 3.

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

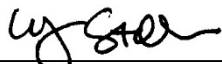
SECTION 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

REVOCABLE PERMIT

Pursuant to the authority granted by Section 16-9 of the Charter of Pueblo, a Municipal Corporation, (the "City"), the City Council of City hereby grants the following revocable permit to Permittee subject to and conditioned upon the provisions herein contained and the Permittee's compliance therewith:

1. Name, Address and Telephone Number of Permittee: **Ybarra's Boxing Club 330 N. Court Street, Pueblo, CO 81003 (719) 237-6982**
2. Permitted Area: **Court Street between W. 3rd Street and W. 4th Street**
3. Purpose of Revocable Permit: **Road closure to facilitate a Cinco De Mayo boxing club event**
4. Commencement Date: **May 6, 2023** Time: **7am**
5. Ending Date: **May 6, 2023** Time: **12pm**

PERMITTEE IN CONSIDERATION OF THE ISSUANCE AND GRANTING OF THE ABOVE DESCRIBED REVOCABLE PERMIT (THE "PERMIT") REPRESENTS, WARRANTS AND AGREES:

(a) The Permitted Area shall be used for the above-specified Purpose of Revocable Permit. No use of the Permitted Area shall be made before the time of the Commencement Date.

(b) All structures, fences, tables, chairs, equipment or other improvements authorized to be placed in the Permitted Area by Permittee (the "Improvements") shall be constructed, installed, and maintained by Permittee in compliance with all applicable codes, ordinances, rules and regulations of City and this Permit.

(c) If the Revocable Permit is issued for a sidewalk café, the Permittee and sidewalk café shall be subject to all the provisions, conditions and requirements contained in section 9-10-84 of the Pueblo Municipal Code, or as same may be amended, which are incorporated herein by reference. In addition, no Improvement shall be tied-down or chained to any tree within or adjacent to the Permitted Area nor shall any Improvement be installed or located in such a manner as to hinder or interfere with the opening of motor vehicle doors or passenger movement to and from motor vehicles parked adjacent to or near the Permitted Area.

(d) If this Permit is issued for the use of the public right-of-way for a special event, Permittee shall deposit with the City the sum of \$500.00 ("Deposit"). The Deposit will be forfeited to the City if Permittee does not remove all Permittee's equipment and property from, and clean and restore the Permitted Area to its original condition before the Time of the Ending Date. If so timely removed and cleaned, the Deposit will be returned to Permittee.

(e) Before the Time of the Ending Date, or immediately upon any other termination of this Permit, Permittee shall, at Permittee's expense, remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition. Failure to timely remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition shall constitute Permittee's abandonment of the Permittee's Improvements, and City may, at Permittee's expense, remove and dispose of Permittee's Improvements and clean and restore the Permitted Area to its original condition. Permittee agrees to pay all City's costs and expenses, including reasonable attorney fees, incurred in the enforcement of this Permit.

(f) Permittee shall keep all Improvements and Permitted Area in good, clean and safe condition and repair, free from litter, waste and debris.

(g) Permittee shall indemnify, defend and hold City, its officers, agents and employees harmless from and against any and all suits, claims, liabilities, loss, damages and expenses, including reasonable attorney fees and cost of defense, arising, directly or indirectly, from or caused by the issuance of this Permit or the conditions hereof, or the existence, construction, installation, repair or maintenance of the Improvements in the Permitted Area, or the use of the Permitted Area or Improvements by Permittee, its officers, agents, employees, invitees or general public.

(h) Neither this Permit nor any of the privileges granted to Permittee hereby, may be conveyed, assigned, transferred or sublet by Permittee without the prior written consent of the City Council of City. Any attempted conveyance, assignment, transfer or subletting of the Permit or Permitted Area without the written consent of the City Council of Pueblo shall be void and of no effect and shall cause this Permit to be automatically revoked.

(i) Permittee shall keep and maintain commercial general liability insurance covering the Permitted Area and Improvements in amounts not less than \$1,000,000.00 combined single limits per occurrence and aggregate, naming the City as an additional insured and contain a waiver of rights of subrogation against City. A certificate for such insurance and each renewal thereof shall be delivered to the City. Failure to maintain such insurance shall cause this Permit to be automatically revoked.

(j) Trees, landscaping and shrubbery within or adjacent to the Permitted Area shall be protected from damage or injury by Permittee and shall not be removed except after receipt by the Permittee of the written consent of the City's Director of Parks and Recreation. Covid-19

(k) Any notice or other document required or permitted herein shall be in writing and delivered personally or by first class mail, postage prepaid, as follows:

(i) If to Permittee, at the address shown in paragraph 1 above.

(ii) If to City, 1 City Hall Place, Pueblo, Colorado, 81003, Attention: Revocable Permit Review Committee. Each party reserves the right to change its address provided notice of such change is given in accordance with this paragraph (k).

(l) City reserves and is hereby granted by Permittee access to, under and through the Permitted Area for any and all purposes. City may injure, damage or remove any and all Permittee's Improvements in the Permitted Area in exercising the right of access hereby reserved and granted. Permittee assumes the risk of injury, loss and damage to Permittee's Improvements within the Permitted area, and City shall have no responsibility or liability for any damage or injuries thereto, whatsoever the cause, including, but not limited to, the acts or omissions of City, its officers, employees, or agents.

(m) This Permit shall terminate upon the occurrence of any one of the following events: (i) the Time of the Ending Date, (ii) abandonment or nonuse by Permittee for a period of three (3) consecutive months, (iii) surrender or cancellation of the Permit in writing by Permittee, (iv) automatic revocation as provided in paragraphs (h) and (i) above; (v) revocation or termination of this Permit by resolution of the City Council of City; or (vi) revocation by the Mayor as provided in paragraph (p). The termination of this Permit shall not relieve Permittee from Permittee's obligations under paragraph (f) until the Authorized Improvements have been removed by Permittee in compliance with paragraph (e).

(n) Permittee acknowledges and agrees that this Permit is temporary and subject to revocation or termination by resolution of the City Council of City, in its sole discretion, for any reason or no reason, at anytime, without liability to City, and without notice to or hearing by Permittee. Permittee waives any and all right or claim to such notice, hearing, and liability of the City.

(o) Permittee acknowledges and agree that use of the Permitted Area shall be conducted in compliance with applicable laws and regulations including but not limited orders, regulations and directives issued by the Governor, Colorado Department of Public Health and Environment and the Pueblo County Department of Public Health and Environment with respect to COVID-19 ("COVID-19 Regulations"). Seven days prior to Commencement Date, Permittee shall submit in writing to the Revocable Permit Review Committee those actions Permittee shall take to assure protection of the public health and compliance with COVID-19 Regulations.

(p) Permittee further acknowledges and agrees that this Permit is temporary and subject to revocation or termination if the purpose of the permit or any potential activities to be conducted under the Permit is determined by the Mayor of City, in his sole and absolute discretion, to not be in furtherance of and/or contrary to the public health or welfare due to COVID-19 or related issues. Such determination and termination may be issued at any time, without liability to City, and without notice to or hearing by Permittee. Permittee waives any and all right or claim to such notice, hearing, and liability of the City.

(q) Nothing in this Permit shall be interpreted to limit or prevent the protections afforded to City under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.

Signed in Pueblo, Colorado this _____ day of _____, 20_____.

PERMITTEE:
Organization or Individual: _____
By: _____
Title: _____

STATE OF COLORADO)

COUNTY OF PUEBLO) SS..

The foregoing instrument was acknowledged before me the _____ day of _____, 20_____ by _____ as _____.

My commission expires: _____.

Notary Public

APPROVED this _____ day of _____, 20_____.
PUEBLO, a Municipal Corporation

By _____

Nicholas A. Gradisar, Mayor



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

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 AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-23-13) TO THE FOOD TRUCK UNION, LLC., A COLORADO LIMITED LIABILITY COMPANY, FOR USE OF THE PUBLIC RIGHT-OF-WAY ALONG COURT STREET AND W. 15TH STREET ADJACENT TO MINERAL PALACE PARK TO FACILITATE FOOD TRUCK UNION EVENTS ON CERTAIN SPECIFIED DATES BETWEEN APRIL 14, 2023 AND OCTOBER 31, 2023

SUMMARY:

Attached is a draft Revocable Permit for The Food Truck Union, LLC., to utilize the public right-of-way along Court Street adjacent to Mineral Palace Park for the purpose of facilitating food truck events in Mineral Palace Park on selected dates between April 14, 2023, and October 31, 2023.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The Food Truck Union, LLC., will be hosting weekly food truck events in Mineral Palace Park between April 2023 and October 2023. The Food Truck Union, LLC., has requested the issuance of a revocable permit for the use of the public parking spaces along Court Street adjacent to Mineral Palace Park.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

The Revocable Permit Review Committee recommends approval.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

Failure to approve the Resolution will prevent the applicant from being able to utilize the public parking spaces along Court Street.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Revocable Permit - Food Truck Union (REV-23-13)

RESOLUTION NO. 15195

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-23-13) TO THE FOOD TRUCK UNION, LLC., A COLORADO LIMITED LIABILITY COMPANY, FOR USE OF THE PUBLIC RIGHT-OF-WAY ALONG COURT STREET AND W. 15TH STREET ADJACENT TO MINERAL PALACE PARK TO FACILITATE FOOD TRUCK UNION EVENTS ON CERTAIN SPECIFIED DATES BETWEEN APRIL 14, 2023 AND OCTOBER 31, 2023

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The attached Revocable Permit is authorized to be issued to The Food Truck Union, LLC., a Colorado Limited Liability Company, for use of the Court Street right-of-way and the W. 15th Street right-of-way to facilitate food truck events in Mineral Palace Park.

SECTION 2.

The use of the public right-of-way granted hereby is subject to all limitations, terms, and conditions set forth in the attached Revocable Permit.

SECTION 3.

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

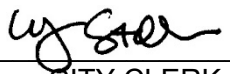
SECTION 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

REVOCABLE PERMIT

Pursuant to the authority granted by Section 16-9 of the Charter of Pueblo, a Municipal Corporation, (the "City"), the City Council of City hereby grants the following revocable permit to Permittee subject to and conditioned upon the provisions herein contained and the Permittee's compliance therewith:

1. Name, Address and Telephone Number of Permittee: **The Food Truck Union 12 Ramsgate Pl Pueblo, CO 81001 7192507971**
2. Permitted Area: Public parking on the east side of **Court Street (between W. 15th Street and W. 19th Street) and public parking on the north side of W. 15th Street (between N. Santa Fe Ave. and Court St.)**
3. Purpose of Revocable Permit: **Designation of existing public parking for dedicated event parking on Fridays between April 14, 2023 and October 31, 2023 between the hours of 8:00 AM and Sunset.**
4. Commencement Date: **April 14 2023** Time: **8am**
5. Ending Date: **October 31, 2023** Time: **Sunset**

PERMITTEE IN CONSIDERATION OF THE ISSUANCE AND GRANTING OF THE ABOVE DESCRIBED REVOCABLE PERMIT (THE "PERMIT") REPRESENTS, WARRANTS AND AGREES:

(a) The Permitted Area shall be used for the above-specified Purpose of Revocable Permit. No use of the Permitted Area shall be made before the time of the Commencement Date.

(b) All structures, fences, tables, chairs, equipment or other improvements authorized to be placed in the Permitted Area by Permittee (the "Improvements") shall be constructed, installed, and maintained by Permittee in compliance with all applicable codes, ordinances, rules and regulations of City and this Permit.

(c) If the Revocable Permit is issued for a sidewalk café, the Permittee and sidewalk café shall be subject to all the provisions, conditions and requirements contained in section 9-10-84 of the Pueblo Municipal Code, or as same may be amended, which are incorporated herein by reference. In addition, no Improvement shall be tied-down or chained to any tree within or adjacent to the Permitted Area nor shall any Improvement be installed or located in such a manner as to hinder or interfere with the opening of motor vehicle doors or passenger movement to and from motor vehicles parked adjacent to or near the Permitted Area.

(d) If this Permit is issued for the use of the public right-of-way for a special event, Permittee shall deposit with the City the sum of \$500.00 ("Deposit"). The Deposit will be forfeited to the City if Permittee does not remove all Permittee's equipment and property from, and clean and restore the Permitted Area to its original condition before the Time of the Ending Date. If so timely removed and cleaned, the Deposit will be returned to Permittee.

(e) Before the Time of the Ending Date, or immediately upon any other termination of this Permit, Permittee shall, at Permittee's expense, remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition. Failure to timely remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition shall constitute Permittee's abandonment of the Permittee's Improvements, and City may, at Permittee's expense, remove and dispose of Permittee's Improvements and clean and restore the Permitted Area to its original condition. Permittee agrees to pay all City's costs and expenses, including reasonable attorney fees, incurred in the enforcement of this Permit.

(f) Permittee shall keep all Improvements and Permitted Area in good, clean and safe condition and repair, free from litter, waste and debris.

(g) Permittee shall indemnify, defend and hold City, its officers, agents and employees harmless from and against any and all suits, claims, liabilities, loss, damages and expenses, including reasonable attorney fees and cost of defense, arising, directly or indirectly, from or caused by the issuance of this Permit or the conditions hereof, or the existence, construction, installation, repair or maintenance of the Improvements in the Permitted Area, or the use of the Permitted Area or Improvements by Permittee, its officers, agents, employees, invitees or general public.

(h) Neither this Permit nor any of the privileges granted to Permittee hereby, may be conveyed, assigned, transferred or sublet by Permittee without the prior written consent of the City Council of City. Any attempted conveyance, assignment, transfer or subletting of the Permit or Permitted Area without the written consent of the City Council of Pueblo shall be void and of no effect and shall cause this Permit to be automatically revoked.

(i) Permittee shall keep and maintain commercial general liability insurance covering the Permitted Area and Improvements in amounts not less than \$1,000,000.00 combined single limits per occurrence and aggregate, naming the City as an additional insured and contain a waiver of rights of subrogation against City. A certificate for such insurance and each renewal thereof shall be delivered to the City. Failure to maintain such insurance shall cause this Permit to be automatically revoked.

(j) Trees, landscaping and shrubbery within or adjacent to the Permitted Area shall be protected from damage or injury by Permittee and shall not be removed except after receipt by the Permittee of the written consent of the City's Director of Parks and Recreation. Covid-19

(k) Any notice or other document required or permitted herein shall be in writing and delivered personally or by first class mail, postage prepaid, as follows:

(i) If to Permittee, at the address shown in paragraph 1 above.

(ii) If to City, 1 City Hall Place, Pueblo, Colorado, 81003, Attention: Revocable Permit Review Committee. Each party reserves the right to change its address provided notice of such change is given in accordance with this paragraph (k).

(l) City reserves and is hereby granted by Permittee access to, under and through the Permitted Area for any and all purposes. City may injure, damage or remove any and all Permittee's Improvements in the Permitted Area in exercising the right of access hereby reserved and granted. Permittee assumes the risk of injury, loss and damage to Permittee's Improvements within the Permitted area, and City shall have no responsibility or liability for any damage or injuries thereto, whatsoever the cause, including, but not limited to, the acts or omissions of City, its officers, employees, or agents.

(m) This Permit shall terminate upon the occurrence of any one of the following events: (i) the Time of the Ending Date, (ii) abandonment or nonuse by Permittee for a period of three (3) consecutive months, (iii) surrender or cancellation of the Permit in writing by Permittee, (iv) automatic revocation as provided in paragraphs (h) and (i) above; (v) revocation or termination of this Permit by resolution of the City Council of City; or (vi) revocation by the Mayor as provided in paragraph (p). The termination of this Permit shall not relieve Permittee from Permittee's obligations under paragraph (f) until the Authorized Improvements have been removed by Permittee in compliance with paragraph (e).

(n) Permittee acknowledges and agrees that this Permit is temporary and subject to revocation or termination by resolution of the City Council of City, in its sole discretion, for any reason or no reason, at anytime, without liability to City, and without notice to or hearing by Permittee. Permittee waives any and all right or claim to such notice, hearing, and liability of the City.

(o) Permittee acknowledges and agree that use of the Permitted Area shall be conducted in compliance with applicable laws and regulations including but not limited orders, regulations and directives issued by the Governor, Colorado Department of Public Health and Environment and the Pueblo County Department of Public Health and Environment with respect to COVID-19 ("COVID-19 Regulations"). Seven days prior to Commencement Date, Permittee shall submit in writing to the Revocable Permit Review Committee those actions Permittee shall take to assure protection of the public health and compliance with COVID-19 Regulations.

(p) Permittee further acknowledges and agrees that this Permit is temporary and subject to revocation or termination if the purpose of the permit or any potential activities to be conducted under the Permit is determined by the Mayor of City, in his sole and absolute discretion, to not be in furtherance of and/or contrary to the public health or welfare due to COVID-19 or related issues. Such determination and termination may be issued at any time, without liability to City, and without notice to or hearing by Permittee. Permittee waives any and all right or claim to such notice, hearing, and liability of the City.

(q) Nothing in this Permit shall be interpreted to limit or prevent the protections afforded to City under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.

Signed in Pueblo, Colorado this _____ day of _____, 20_____.

PERMITTEE:

Organization or
Individual: _____

By: _____

Title: _____

STATE OF COLORADO)

COUNTY OF PUEBLO) SS..

The foregoing instrument was acknowledged before me the _____ day of _____, 20_____ by _____ as _____.

My commission expires: _____.

Notary Public

APPROVED this _____ day of _____, 20_____.
PUEBLO, a Municipal Corporation

By _____

Nicholas A. Gradisar, Mayor



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION APPROVING THE ADOPTION OF THE CITY OF
PUEBLO DRAINAGE CRITERIA MANUAL

SUMMARY:

This Resolution approves the adoption of the City of Pueblo Drainage Criteria Manual, replacing the current Stormwater Drainage Design Criteria and Drainage Policies, dated June 9, 1997, which are currently in effect.

PREVIOUS COUNCIL ACTION:

Resolution 8156, dated June 9, 1997, adopted the most recent version of the City of Pueblo Stormwater Drainage Design Criteria and Policies.

BACKGROUND:

The Public Works Department – in coordination with other departments responsible for managing the City of Pueblo public infrastructure systems – developed Construction Standards and Specifications and Design Criteria which apply to all of the City of Pueblo projects. These standards and criteria also apply to construction work performed by developers and builders responsible for constructing public improvements in residential, commercial, and industrial developments within the City of Pueblo.

These standards and design criteria ensure the public infrastructure can safely meet the needs and demands of the public; and that the City of Pueblo remains in compliance with state and federal law; and that the City of Pueblo responsibly approaches the management of the *Total Life-Cycle Cost* of constructing, operating, and maintaining its infrastructure systems. These standards generally do not specify *what types* of improvements must be constructed for a given project, but they do address the required quality, materials, dimensions, capacities, and other physical and functional characteristics for public infrastructure systems.

The City of Pueblo's current Stormwater Drainage Criteria and Policies were adopted in

June 1997, and have only received minor updates since that time. In the 25 years since its adoption, many state and federal regulatory changes have been implemented, which have been one of the primary drivers behind this proposed update. From a development and construction cost perspective, cost savings may also be realized through the alignment of our criteria with that of other Front Range communities.

Specifically, standardizing the design criteria will make it easier for design engineers to prepare submittals for approval and for builders to construct stormwater systems using "standard" materials that would be widely available throughout the region. Greater efficiencies in the design review process will also be realized with standardized submittal requirements, reducing the time required for the City of Pueblo staff reviews and approvals. Most importantly, these criteria are in place to reduce flooding hazards to people and property to the greatest extent practicable. This criteria update incorporates planning parameters adopted from recent flooding events in Colorado and utilizes more accurate climatological modeling data to support the design process.

FINANCIAL IMPLICATIONS:

Not applicable.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

These proposed criteria changes have been vetted through multiple meetings with the Committee for Community Development, which includes local developers, builders, engineers, representatives from PEDCO, the City Council members, and others. This stakeholder group provided excellent feedback during the review process, which resulted in further improvements to the final product. In addition, an apples-to-apples comparison of the drainage requirements generated using the new criteria was performed and compared to the requirements developed under the existing criteria.

The analysis revealed only minor changes in required detention volumes and other significant project cost drivers between the two criteria for the test project, a positive sign that the new criteria will not result in significantly higher construction costs.

The Stormwater Division desires to continue working with the Committee and other interested stakeholders on an annual basis to discuss specific areas of concern and any issues that may arise over time with respect to the updated Stormwater Drainage Criteria Manual.

ALTERNATIVES:

The existing Stormwater drainage criteria manual will remain in effect if the Resolution is not approved.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. City of Pueblo Drainage Criteria Manual

RESOLUTION NO. 15196

A RESOLUTION APPROVING THE ADOPTION OF THE CITY
OF PUEBLO DRAINAGE CRITERIA MANUAL

WHEREAS, Resolution 8156, dated June 9, 1997, adopted the Storm Drainage Design Criteria and Drainage Policies for the City of Pueblo; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Pursuant to and in furtherance of the provisions of Chapter 12, Title XVI of the Pueblo Municipal Code, and upon recommendation by the Director of Stormwater, the City Council hereby adopts the City of Pueblo Drainage Criteria Manual, published April 10, 2023, by the Department of Public Works, a true copy of which is attached hereto and made a part hereof by reference (hereinafter referred to as the "Drainage Criteria Manual").

SECTION 2.

After adoption of this Resolution, a true copy of the Drainage Criteria Manual, as revised, shall be maintained on file in the office of the City Clerk for public inspection. Copies of the Drainage Criteria Manual, as revised, shall be made available through the City's Department of Public Works and on the City of Pueblo Website.

SECTION 3.

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

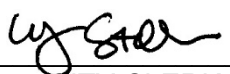
SECTION 4.

This Resolution shall become effective immediately upon final approval.

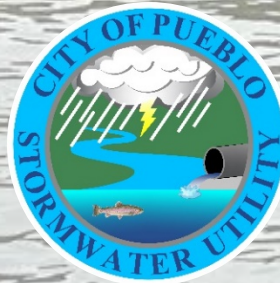
INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

City of Pueblo
**Drainage Criteria
Manual**



April 2023

Table of Contents

Chapter 1.0	General Provisions.....	1-1
1.1	Enactment Authority.....	1-1
1.2	Administrator.....	1-1
1.3	Purpose	1-1
1.4	Jurisdiction and Applicability	1-1
1.5	Review and Approval	1-3
1.6	Interpretation.....	1-4
1.7	Variances.....	1-4
1.7.1	Applicability.....	1-4
1.7.2	Criteria of Approval	1-4
1.7.3	Submittal Requirements.....	1-5
1.7.4	Disposition of Variance	1-6
1.8	Amendment of Manual	1-6
1.9	Relationship to Other Standards	1-6
1.10	Use of Modeling Software and Design Spreadsheets	1-7
1.11	Permits and Other Requirements.....	1-7
1.12	Liability.....	1-7
Chapter 2.0	Stormwater Management Principles and Policies.....	2-1
2.1	Introduction.....	2-1
2.2	Principles	2-1
2.3	Policies	2-4
2.3.1	Drainage Planning	2-4
2.3.2	Runoff Reduction, Flood Detention (Storage) and Stormwater Quality Facilities	2-6
2.3.3	Drainage Design	2-8
2.3.4	Operation and Maintenance of Drainage Facilities	2-9
2.3.5	Storm Drainage Planning and Irrigation Facilities.....	2-10
Chapter 3.0	Drainage Report and Construction Drawing Submittal Requirements	3-1
3.1	Introduction.....	3-1
3.2	General Submission Guidelines	3-1
3.3	Drainage Report Types.....	3-2
3.3.1	Abbreviated Drainage Report.....	3-2
3.3.2	Master Development Plan Drainage Report.....	3-3

3.3.3	Preliminary Drainage Report.....	3-4
3.3.4	Final Drainage Report.....	3-4
3.4	Requirements for Preliminary and Final Drainage Reports.....	3-5
3.4.1	Report Organization and Content.....	3-5
3.4.2	Appendices.....	3-10
3.4.3	Engineer's Statement.....	3-13
3.4.4	Drawing Conventions.....	3-13
3.5	Construction Drawings and Specifications	3-14
3.6	Record Drawings (As-Built Drawings) for Final Acceptance (Subdivisions) & Certificate of Occupancy (Commercial)	3-16
Chapter 4.0	Floodplains	4-1
4.1	Introduction	4-1
4.2	Floodplain Mapping.....	4-2
4.2.1	Floodplains Designated by FEMA.....	4-2
4.2.2	Floodplains Not Mapped by FEMA.....	4-2
4.3	General Provisions.....	4-2
4.3.1	Floodplain Compliance Required	4-3
4.3.2	General Standards.....	4-3
4.3.3	Structures	4-4
4.3.4	Floodways	4-4
4.3.5	Properties Removed from the Floodplain by Fill.....	4-5
4.4	Administration	4-6
4.4.1	Floodplain Administrator	4-6
4.4.2	Floodplain Development Permits	4-6
4.5	Allowable Uses	4-7
4.5.1	Allowable Uses within SFHAs	4-7
4.5.2	Allowable Uses in Approximate Flood Zones	4-7
4.5.3	Other Uses	4-7
4.6	Elevation Certificates	4-8
4.7	Variances.....	4-8
Chapter 5.0	Rainfall	5-1
5.1	Introduction.....	5-1
5.2	Rainfall Depth-Duration-Frequency Values	5-1
Chapter 6.0	Runoff.....	6-1
6.1	Introduction	6-1

6.2	Runoff Calculation Methods	6-1
6.2.1	Rational Method.....	6-2
6.3	Assumptions for Storm Flow Analysis	6-4
Chapter 7.0	Streets	7-1
7.1	Introduction	7-1
7.2	Function of Streets in the Drainage System	7-1
7.3	Allowable Use of Streets for Storm Flows	7-1
7.4	Hydraulic Evaluation Techniques	7-2
7.4.1	Allowable Gutter Flow Depths and Spreads.....	7-3
7.4.2	Allowable Street Capacity Curves	7-4
7.5	Design Considerations.....	7-11
Chapter 8.0	Inlets	8-1
8.1	Introduction	8-1
8.2	Standard Inlets.....	8-2
8.3	Inlet Design.....	8-2
8.3.1	Hydraulic Design.....	8-2
8.3.2	Inlet Location	8-2
8.4	Design Considerations.....	8-3
Chapter 9.0	Storm Drains.....	9-1
9.1	Introduction	9-1
9.2	Design Storms for Sizing Storm Drain Systems	9-1
9.2.1	Minor Event Design Storm	9-2
9.2.2	Major Event Design Storm	9-2
9.3	Hydraulic Design.....	9-2
9.4	Construction Materials	9-3
9.5	Pipe Size	9-3
9.6	Vertical and Horizontal Alignments	9-4
9.7	Manholes/Cleanouts	9-6
9.8	Outlets	9-6
9.8.1	Conduit Outlet Protection.....	9-6
9.8.2	Safety	9-6
9.9	Abandonment	9-7
9.10	Easements.....	9-7
9.11	Key Design Considerations.....	9-8

Chapter 10.0 Open Channels	10-1
10.1 Introduction.....	10-1
10.2 Major Drainageways	10-1
10.2.1 Natural Channel Design and Preservation	10-2
10.2.2 Development Near Existing Channels.....	10-2
10.3 Minor Drainageways	10-3
10.4 Hydraulic Analysis.....	10-3
10.4.1 Preliminary Channel Analysis	10-3
10.4.2 HEC-RAS Modeling	10-3
10.5 Rock and Boulders.....	10-4
10.5.1 Sizing.....	10-4
10.5.2 Specifications.....	10-4
10.6 Naturalized Channels Design Criteria	10-4
10.7 Maintenance and Easements.....	10-8
Chapter 11.0 Hydraulic Structures	11-1
11.1 Introduction.....	11-1
11.2 City of Pueblo Design Criteria	11-1
Chapter 12.0 Culverts and Bridges	12-1
12.1 Introduction.....	12-1
12.2 General Design and Hydraulic Evaluation.....	12-1
12.3 Culvert Criteria.....	12-2
12.3.1 Construction Material and Pipe Size	12-3
12.3.2 Multiple Pipe Culverts	12-3
12.3.3 Inlet and Outlet Configuration	12-3
12.3.4 Headwater Considerations.....	12-4
12.3.5 Structural Design	12-4
12.3.6 Safety Grates.....	12-4
12.3.7 Culvert Design Considerations.....	12-5
12.4 Bridge Criteria.....	12-5
12.4.1 Bridge Freeboard.....	12-6
12.4.2 Hydraulic Analysis	12-6
12.4.3 Low Water Crossings and Pedestrian Bridges	12-7
Chapter 13.0 Detention.....	13-1
13.1 Introduction.....	13-1

13.2	Full Spectrum Detention.....	13-2
13.3	Integration of Water Quality and Flood Control Detention	13-2
13.4	Regional Detention Facilities.....	13-3
13.5	Relationship to Adjacent Properties and Structures	13-4
13.6	Maintenance and Easements.....	13-5
13.7	Office of the State Engineer Coordination	13-6
13.7.1	Jurisdictional Dam Requirements.....	13-6
13.7.2	Drain Time Requirements	13-6
13.8	Design Standards for Detention Facilities	13-6
13.8.1	Storage Volume	13-7
13.8.2	Grading Requirements.....	13-7
13.8.3	Detention Pond Location Relative to Floodplains	13-7
13.8.4	Retaining Walls.....	13-7
13.8.5	Emergency Spillway and Freeboard	13-8
13.8.6	Inlet and Forebay.....	13-9
13.8.7	Low Flow (Trickle) Channel.....	13-9
13.8.8	Outlet Configuration	13-9
13.8.9	Landscaping Requirements	13-10
13.8.10	Multiple Use Considerations.....	13-11
13.8.11	Roadway Embankment Protection	13-12
13.8.12	Parking Lot Detention.....	13-13
13.9	Underground Water Quality and Detention Facilities.....	13-13
13.10	Design Standards for Retention (Wet) Ponds	13-14
13.10.1	Allowable Use	13-14
13.10.2	Design Standards for Retention Ponds.....	13-14
13.11	Summary of Key Design Considerations	13-14
Chapter 14.0	Stormwater Quality	14-1
14.1	Introduction.....	14-1
14.2	MS4 Permit.....	14-1
14.2.1	Areas Included in MS4 Permit.....	14-1
14.2.2	Non-Standard MS4 Permits	14-2
14.2.3	Areas Outside MS4 Permit.....	14-2
14.3	Applicability.....	14-2
14.4	Design Approach	14-3

14.4.1	Scale of Application	14-5
14.4.2	Design Criteria	14-6
14.4.3	Additional Requirements for Infiltration-Based Practices	14-6
14.4.4	Safety	14-7
14.4.5	Aesthetics	14-7
14.4.6	Maintenance and Easements.....	14-8
14.5	Water Rights Requirements for Stormwater Facilities	14-9
Chapter 15.0 Construction Site Stormwater Management and Erosion Control		15-1
15.1	Introduction	15-1
15.2	City of Pueblo's Construction Site Stormwater Management Policies	15-1
15.3	Construction Activity Requirements	15-2
15.3.1	Plan Triggers	15-2
15.3.2	Requirements for Construction Site Stormwater Control Measures.....	15-4
15.3.3	Maintenance and Corrective Actions.....	15-11
15.4	Erosion and Sediment Control Plan (ESCP) Requirements	15-11
15.5	Stormwater Management Plan (SWMP) Requirements	15-12
15.6	Responsibilities of Permittee.....	15-12
15.6.1	Maintain Erosion and Sediment Control Plan or Stormwater Management Plan Onsite	15-12
15.6.2	Erosion and Sediment Control Plan or Stormwater Management Plan Modifications and Permit Amendments	15-12
15.6.3	Inspections	15-13
15.7	Enforcement	15-15
Chapter 16.0 References		16-1

Figures

Figure 1-1. City of Pueblo Major Drainageways and Floodplains.....	1-2
Figure 5-1. Rainfall Intensity-Duration-Frequency Curves for Use with the Rational Method (for Watersheds of 90 Acres or Less)	5-4
Figure 7-1. Allowable Street Capacity for Minor Event, Local Streets	7-5
Figure 7-2. Allowable Street Capacity for Minor Event, Collector Streets	7-6
Figure 7-3. Allowable Street Capacity for Minor Event, Arterial Streets	7-7
Figure 7-4. Allowable Street Capacity for Major Event, Local Streets.....	7-8
Figure 7-5. Allowable Street Capacity for Major Event, Collector Streets	7-9
Figure 7-6. Allowable Street Capacity for Major Event, Arterial Streets	7-10
Figure 7-7. Reduction Factors for Gutter Flow.....	7-11
Figure 9-1. Hydraulic Properties of Circular Pipe.....	9-9
Figure 13-1. Major Steps for Integrating Full Spectrum Detention and Water Quality into Storage Facilities in the City of Pueblo	13-2
Figure 14-1. MHFD's Four-Step Process for Stormwater Quality Management.....	14-4
Figure 14-2. Flow Chart for Sites with Potential Contamination.....	14-8

Tables

Table 3-1. Drainage Submittal Requirements.....	3-2
Table 3-2. Resources for Identification of Known or Suspected Contamination on Project Sites and within a 1-mile Radius ¹	3-9
Table 3-3. Drawing Symbol Criteria and Hydrology Review	3-13
Table 3-4. Detention Basin Summary Table for Drainage Construction Plan.....	3-14
Table 5-1. City of Pueblo Point Rainfall Depths.....	5-2
Table 5-2. Rainfall Depth-Duration-Frequency Values for Use with the Rational Method (for Watersheds of 90 Acres or Less)	5-3
Table 5-3. Rainfall Intensity-Duration-Frequency Values for Use with the Rational Method (for Watersheds of 90 Acres or Less)	5-3
Table 6-1. Runoff Calculation Methods Acceptable for Use in the City of Pueblo	6-2
Table 6-2. Assumptions for Onsite and Offsite Storm Flow Analysis	6-4
Table 7-1. Allowable Use of Streets for Minor Storm Runoff (5-Year Event).....	7-2
Table 7-2. Allowable Use of Streets for Major Storm Runoff (100-Year Event).....	7-2
Table 7-3. Allowable Cross-street Flow When Cross Pans Are Allowed ¹	7-2
Table 7-4. Manning's Roughness Coefficients for use in Hydraulic Calculations	7-3
Table 7-5. Minor Storm (5-Year Event) - Permitted Flow Spread and Depths	7-3
Table 7-6. Major Storm (100-Year Event) - Permitted Flow Spread and Depths.....	7-4
Table 8-1. Inlet Types	8-2
Table 9-1. Minimum Size Criteria for Public Storm Drains.....	9-3
Table 9-2. Vertical Clearance Requirements for Storm Drains	9-4
Table 9-3. Vertical Drop Requirements for Storm Drains.....	9-5
Table 9-4. Horizontal Alignment Requirements for Storm Drains	9-5
Table 9-5. Required Manhole Diameters.....	9-6
Table 12-1. Allowable Roadway Overtopping at Culvert Crossings	12-2
Table 13-1. Grading Criteria for Detention Facilities	13-7

Table 14-1. Permanent Stormwater Quality Control Measure Requirements	14-2
Table 15-1. Requirements for Erosion and Sediment Control for Construction Activities.....	15-4
Table 15-2. Typical Enforcement Mechanisms.....	15-15

Appendices

Appendix A. Guidance for Parameters Used in Calculations
Appendix B. Drainage Report Checklist
Appendix C. Erosion and Sediment Control Plan Guidance
Appendix D. Stormwater Management Plan Guidance

Chapter 1.0 General Provisions

1.1 Enactment Authority

The City of Pueblo Stormwater Utility has amended the Storm Drainage Criteria and Policies dated June 9, 1997 and is superseding the manual with City of Pueblo Drainage Criteria Manual dated April, 2023. This amendment has been adopted by the City Council of the City of Pueblo by resolution in accordance with municipal code 16-12-3 (18).

1.2 Administrator

The "Stormwater Director" is responsible for administration and enforcement of the DCM, including review of all drainage reports, plans, and specifications for drainage improvements; interpretation and enforcement of the provisions of this Manual; and application of sound engineering judgement in implementing the requirements found in this Manual.

1.3 Purpose

The purpose of this Manual is to establish minimum storm drainage criteria for the public safety, health, comfort, convenience, welfare, and economic well-being of residents and owners of property within the City. The criteria described in this Manual are not intended to, nor should they be construed to, create any new rights, remedies, or benefits for any person, firm, corporation, or entity.

This Manual presents the policies and minimum technical criteria for the planning, analysis, design, and maintenance of storm drainage systems in the City and incorporates by reference the Mile High Flood District's (formerly the Urban Drainage and Flood Control District's) Urban Storm Drainage Criteria Manual, Volumes 1, 2, and 3 (MHFD Manual) (UDFCD 2016). All Master Development Plans, Subdivisions, Re-subdivisions, Planned Unit Developments, Special Area Plans, or other proposed construction submitted for approval under the provisions of the current City of Pueblo Code of Ordinances, shall include adequate storm drainage provisions that meet or exceed the criteria in this Manual. All drainage design, analyses, and reports shall be prepared under the supervision of a professional engineer licensed in the State of Colorado.

1.4 Jurisdiction and Applicability

All of the policies and design criteria set forth in this Manual are adopted pursuant to the authority of the current City of Pueblo Code of Ordinances, as amended, and shall apply to all land within the current and subsequently annexed boundaries of the City (Figure 1-1), including all City-owned lands. This Manual applies to all storm drainage systems and facilities constructed in or on City Rights-of-Way (ROW), easements dedicated for drainage across public or private property, easements dedicated for public use, and to

all privately-owned and maintained stormwater conveyance, detention, retention, and water quality facilities.

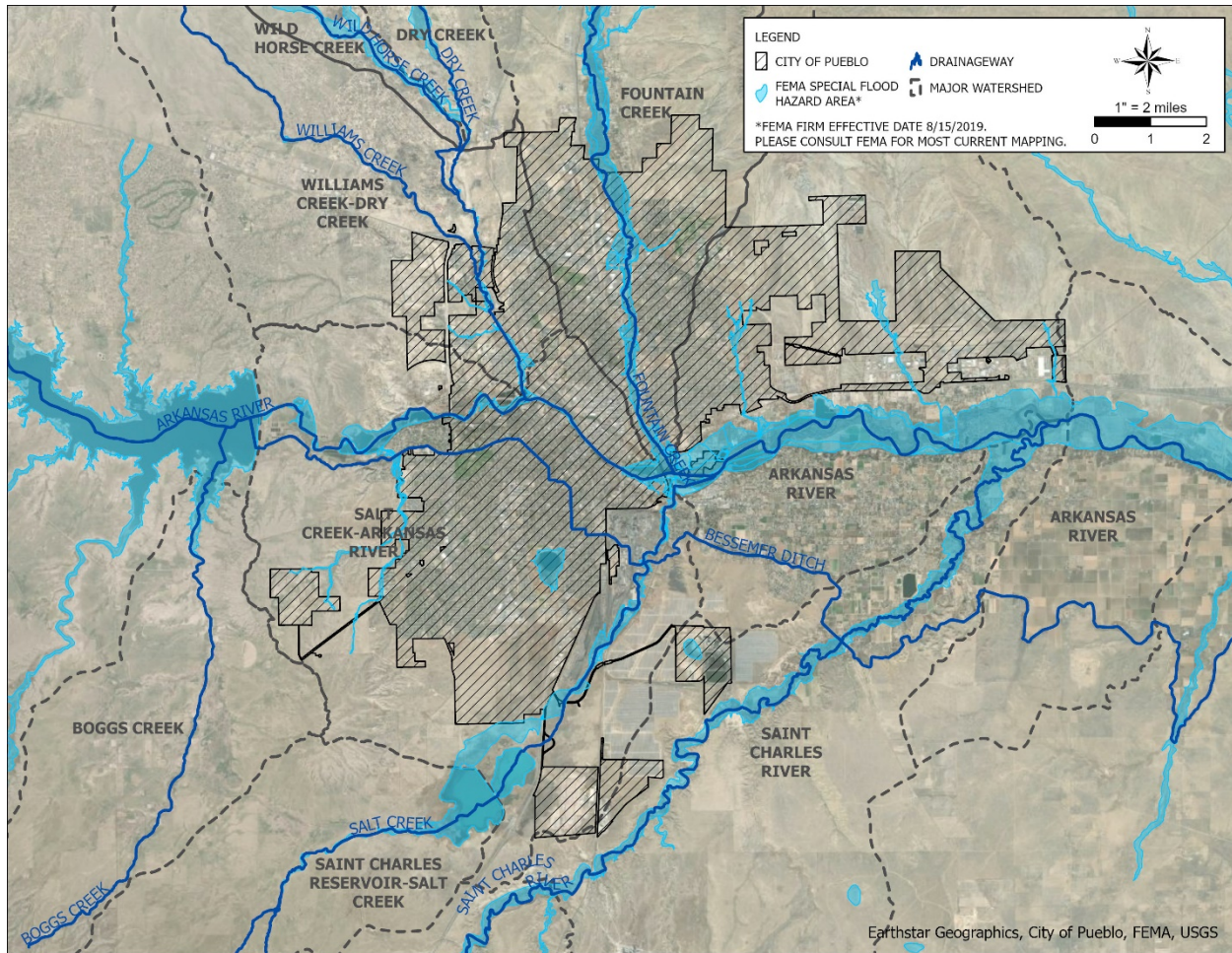


Figure 1-1. City of Pueblo Major Drainageways and Floodplains

This Manual applies to the administration of drainage, floodplain, and water quality provisions of the Pueblo Municipal Code and all other ordinances and regulations that require a review of drainage conditions on any property within the City.

This Manual applies to all new development and redevelopment projects in the City. Drainage and water quality treatment systems must be designed to address stormwater runoff from all disturbed portions of the development site, including all newly created impervious areas. When the Stormwater Director has determined that it is not practicable to capture runoff from portions of the site that will not drain towards a control measure, the applicant may request a variance (see Section 1.7), provided the stormwater is managed in a manner that is consistent with the City's Colorado Discharge Permit System (CDPS) General Permit COR090000 - Stormwater Discharges Associated with Municipal Separate Storm Sewer Systems (MS4). In addition, areas within the City that are subject to the requirements of non-standard MS4

permits such as, for example, school districts, must comply with the criteria in this Manual as well as the requirements of the respective MS4 permit.

1.5 Review and Approval

The City will review all submittals of drainage studies and plans for general compliance with this Manual. An approval by the City does not relieve the owner, engineer, or designer from responsibility for ensuring that the calculations, plans, specifications, and construction and record drawings are in compliance with the Manual, as stated in the certification of the owner's engineer, as specified in the *Submittals* chapter of this Manual.

The City may request that the Stormwater Director, or their designees, review reports and construction plans required by this Manual. Where major drainageway improvements or floodplain delineation are involved, approval by the Floodplain Administrator, which may be the Stormwater Director or their designee, will be required, and administration of the subject area must be in accordance with Title XVII Chapter 9 of the Pueblo Code of Ordinances.

In cases where major drainageway improvements, outfalls to major drainageways, regional detention or water quality facilities, or floodplain modifications are proposed within the Fountain Creek watershed, the City will refer reports and construction plans required by this Manual to the Fountain Creek Watershed Flood Control and Greenway District (FCWFCGD). Per Colorado Revised Statute (CRS) §32-11.5-206(1), FCWFCGD approval will be required for the design and construction of the improvements.

Submittals that impact FEMA-designated floodplains must be submitted through the City to FEMA for review in accordance with the provisions of Chapter 4 of this Manual.

The project owner or the owner's engineer is responsible for obtaining all applicable permits, including completing submittals to other agencies that have an interest or responsibility for drainage and/or water quality issues. Other review agencies may include federal and state agencies responsible for floodplains, water quality, wetlands, water rights, and other stormwater-related issues, as well as other impacted jurisdictions. The project owner or owner's engineer is also responsible for submittals to irrigation companies on any development adjacent to canals that could impact the water quality, flow rate, or quantity of water delivered to those canals.

The City of Pueblo Stormwater Utility will inspect and approve constructed storm drainage systems prior to use. The property owner and subsequent owners of the property are responsible for maintaining the constructed drainage system as designed and constructed (with any subsequent City-approved modifications).

Long-term Operation and Maintenance Manuals are required for all major drainage improvements, as identified by the Stormwater Director. Operation and Maintenance Manuals must be approved by the City and recorded so that future owners will

understand maintenance requirements. The permittee shall retain maintenance records consistent with the City's MS4 permit.

1.6 Interpretation

In the interpretation and application of the provisions of this Manual by the Stormwater Director, the following will govern:

- This Manual provides the minimum requirements to protect the public health, safety, comfort, convenience, prosperity, and welfare of the residents of the City, protect property, and minimize adverse impacts to the environment.
- Whenever a provision of this Manual and any other provisions of the Pueblo Code of Ordinances, law, resolution, rule, or regulation of any kind, contains any requirement(s) covering any of the same subject matter, the requirements that are more restrictive or impose higher standards will govern.
- This Manual does not abrogate or annul any easements, permits, drainage reports, or construction drawings, recorded, issued, or accepted by the City prior to the effective date of this Manual.
- The Stormwater Director has final authority to resolve any conflicting interpretations of this Manual.

1.7 Variances

Permittees may request variances from the requirements of this Drainage Criteria Manual within the context of these rules and regulations. The procedure for requesting variances is shown below (described in section 1.7.3). A variance cannot be granted that would create a condition of non-compliance with the City's MS4 permit. Any variance approved by the City will be documented using the City's Drainage Variance Form, including a description of the reasons for the approval and a finding that the variance does not create a condition of non-compliance with the City's MS4 permit.

1.7.1 Applicability

Variances are considered an extraordinary form of relief and are disfavored. Nevertheless, the City recognizes that in certain limited instances it may be exceptionally difficult to both conform to these criteria and maintain the special character and environmental values of the City. In such situations, a variance may be sought. Variances will be considered on a case-by-case basis. The procedures of this Section shall apply to requests for variances from the standards or submittal requirements of this Manual.

1.7.2 Criteria of Approval

A variance application may be approved only if the Stormwater Director finds by clear and convincing evidence that the applicant has met all of the following criteria:

1. The variance applicant is unable to comply with the underlying standard or submittal requirement, and the non-compliance is not due to the applicant's fault.
2. The variance will address a unique condition not experienced by other property owners of the same classification in the same zoning district.
3. The variance sought:
 - a. Represents the least deviation from the standard or submittal requirement that will afford relief;
 - b. Does not increase costs of maintenance and repair of public storm drainage facilities or other public facilities;
 - c. Does not cause property damage to upstream or downstream properties;
 - d. Does not impose undue adverse environmental impacts;
 - e. Ensures access to the property and safe traffic flow will not be compromised; and
 - f. Does not cause undue negative impact to public safety, health, welfare, and environment.

The Stormwater Director may, at their discretion, utilize a third party (or third parties) to provide expertise or input when reviewing a variance application.

1.7.3 Submittal Requirements

Variance requests shall be submitted to the Stormwater Director in writing. To support the requested variance, the applicant must provide the following:

1. Details identifying the standard or submittal requirement from which the applicant seeks a variance and including a description of conditions and constraints that prevent the applicant from meeting the requirements of this Manual. The application must provide specific reference to applicable sections of this Manual and the City's CDPS MS4 Permit relevant to the proposed variance request.
2. Alternate criteria or standards that are proposed to comply with the intent of the criteria underlying the standard or submittal requirement the applicant seeks to vary. Additionally, the applicant must provide documentation, including necessary calculations, analyses, and other relevant information supporting the alternate criteria. The supporting documentation, calculations, and analyses must be signed and stamped by an engineer licensed in the State of Colorado.
3. If applicable, the applicant must provide alternatives to meeting flood attenuation, water quality, and any other requirement of this Manual. If the analysis identifies the use of off-site or regional drainage facilities to meet the requirements of this Manual, the applicant must also include:

- a. Location of proposed facility.
 - b. Owner of proposed facility.
 - c. Analysis of available capacity of facility.
 - d. Proposed modifications to the facility to accommodate proposed use (if applicable).
 - e. Analysis of storm drain system capacity to convey flows to the facility.
 - f. Agreement for use and maintenance of the facility.
4. A complete description of the cumulative impacts of the proposed variance and similar potential variances for similar properties in the same major drainage basin in the City. The applicant must provide a description of potential adverse impacts of the proposed variance on major drainageways and downstream public and private drainage facilities and properties.
5. Any other information that would support the validity of the variance.
6. Additional information that may be required by the Stormwater Director or their designee.

1.7.4 Disposition of Variance

Upon receipt and review of a complete application for a variance, the Stormwater Director will review the application and provide a written disposition and findings approving, denying, or approving with modifications or conditions.

If a variance application is denied, the applicant shall be prohibited from submitting a variance request seeking the same or significantly similar relief absent a showing of significantly changed circumstances. Alternatively, an appeal may be sought in accordance with Colorado Rules of Civil Procedure (CRCP) 106(a)(4).

1.8 Amendment of Manual

The policies and criteria contained in this Manual are basic guidelines that may be amended as deemed necessary or as required by law including amendments due to new technology or as more experience is gained in the use of this Manual. Amendments shall be adopted by Resolution. Final drainage reports or construction plans submitted to the City for approval prior to the effective date of any such Resolution shall be exempt from the requirements of any newly adopted amendment adopted by such Resolution.

1.9 Relationship to Other Standards

Included in this Manual are approved design methods, charts and tables, which when used will enable the City to perform its review in a more efficient and expeditious

manner. If the engineer prefers to use other methods, charts or tables, prior approval shall be obtained from the Stormwater Director or their designee before submittal. Policies and technical criteria not specifically addressed in this Manual must follow the provisions of the MHFD Manual, which is incorporated in this Manual by reference.

1.10 Use of Modeling Software and Design Spreadsheets

Computer software programs, models, and spreadsheets are referenced in this Manual as design aids that may be useful in designing drainage and water quality improvements. Use of these design aids is in no way a substitute for sound engineering judgment, proper engineering qualifications, and common sense. Although the design aids recommended in this Manual have been developed using a high standard of care, it is possible that some nonconformities, defects, bugs, and errors with the software programs will be discovered as they become more widely used. The City does not warrant that any version of these design aids will be error-free or applicable to all conditions encountered by the designer, and the City will not be held liable for their use.

1.11 Permits and Other Requirements

The developer and/or landowner shall be required to obtain all permits required by federal, state, or local agencies in conjunction with work covered under this Manual and shall be required to comply with stormwater requirements which may be imposed directly by such agencies, or which may be indirectly necessitated in order for the City to comply with any permit which may be issued to the City.

1.12 Liability

The adoption of this Manual shall not create any duty to any person, firm, corporation, or other entity with regard to the application, enforcement or nonenforcement of this Manual. No persons, firm, corporation, or other entity shall have a private right of action, claim or civil liability remedy against the City, or its officers, employees, or agents, for any damage arising out of or in any way connected with the adoption, application, enforcement, or nonenforcement of this Manual. Nothing in this Manual shall be construed to create any liability under, or to waive any of the immunities, limitations on liability, or other provisions of, the Governmental Immunity Act, C.R.S. 24-10-101 et seq., or to waive any immunities or limitations on liability otherwise available to the City or its officers, employees, or agents.

Review and approval by the City of drainage improvements proposed in submittals does not relieve the engineer who designed such improvements from his or her professional responsibilities for the adequacy of the design of said improvements.

This page intentionally left blank.

Chapter 2.0 Stormwater Management Principles and Policies

2.1 Introduction

Stormwater and floodplain management are necessary to preserve and promote the general health, welfare, safety, and economic and environmental well-being of the residents of the City of Pueblo (City). When considered in a comprehensive manner on a regional level with public and private involvement, stormwater management facilities can enhance the general health and welfare of the region and support optimum economic and social relationships. This chapter describes the principles that the City follows to manage drainage and summarizes policies followed for planning, design, operation and maintenance, irrigation facilities, flood control, and water quality. These principles form the underlying basis of the criteria established in this Manual.

2.2 Principles

The City follows well-established principles for urban stormwater management. These principles have been adopted from the Mile High Flood District's (MHFD's) Urban Storm Drainage Criteria Manual (MHFD Manual):

1. Drainage is a regional phenomenon that does not respect the boundaries between government jurisdictions or between properties. This makes it necessary to formulate programs that include both public and private involvement. Overall, the governmental entities most directly involved must provide coordination and master planning, but drainage planning must be integrated on a regional level if optimum results are to be achieved. The manner in which proposed drainage systems fit into existing regional systems must be quantified and discussed in drainage master plans.
2. A storm drainage system is a subsystem of the total urban water resources system. Stormwater system planning and design for any site must be compatible with comprehensive regional plans and should be coordinated with planning for land use, open space, and transportation. Erosion and sediment control, flood control, site grading criteria, and water quality are integral to urban stormwater management. Any individual master plan or specific site plan should normally address all of these considerations.
3. Every urban area has an initial (i.e., minor) and a major drainage system, whether or not they are actually planned and designed. The initial drainage system, sometimes referred to as the "minor system," is designed to provide public convenience and to accommodate moderate, frequently occurring flows. The major system carries more water and operates when the rate or volume of runoff exceeds the capacity of the minor system. Both systems should be carefully considered.

4. Runoff routing is primarily a space allocation problem. The volume of water present at a given point in time in an urban region cannot be compressed or diminished. Channels and storm drains serve both conveyance and storage functions. If adequate provision is not made for drainage space demands, stormwater runoff will conflict with other land uses, result in damages, and impair or disrupt the functioning of other urban systems.
5. Planning and design of stormwater drainage systems should not be based on the premise that problems can be transferred from one location to another. Urbanization tends to increase downstream peak flow by increasing runoff volumes and velocities. Stormwater runoff can be stored and slowly released via detention facilities to manage peak flows, thereby reducing the drainage capacity required immediately downstream.
6. An urban storm drainage strategy should be a multi-objective and multi-means effort. The many competing demands placed on space and resources in an urban region warrant a drainage management strategy that meets multiple objectives, including water quality enhancement, groundwater recharge, recreation, wildlife habitat, wetland protection, control of erosion and sediment deposition, protection of landmarks/amenities, and creation of open spaces.
7. Design of the storm drainage system should consider the features and functions of the existing drainage system. Every site contains natural features that may contribute to the management of stormwater without significant modification. Existing features such as natural streams, depressions, wetlands, floodplains, permeable soils, and vegetation provide for infiltration, help control the velocity of runoff, extend the time of concentration, filter sediments and other pollutants, and recycle nutrients. Each development plan should carefully map and identify the existing natural system. Techniques that preserve or protect and enhance the natural features are encouraged. Good designs improve the effectiveness of natural systems rather than negate, replace, or ignore them.
8. In conjunction with new development and redevelopment, efforts should be coordinated to minimize increases in, and reduce where possible, stormwater runoff volumes, flow rates, and pollutant loads to the maximum extent practicable. Key practices include:
 - The perviousness of the site and natural drainage paths should be preserved to the extent feasible. Areas conducive to infiltration of runoff should be preserved and integrated into the overall runoff management strategy for the site.
 - The rate of runoff should be slowed. Preference should be given to stormwater management systems that maximize vegetative and pervious land cover. These systems will promote infiltration, filtering, and slowing of runoff. Due to the principle of mass conservation, it is virtually impossible to prevent increases in post-development runoff volumes for all storm

events when an area urbanizes. Existing stormwater regulations typically require control of peak flows to predevelopment levels to the maximum extent practicable, and increasingly, regulatory agencies are implementing requirements focused on the control of runoff volumes for smaller, frequently occurring events. Increased flow volumes may not cause flooding problems if a watershed has a positive outfall to a stream or river; however, increases in runoff volumes may cause problems for small, enclosed watersheds (i.e., draining to a lake) or into streams of limited capacity. Increases in runoff volumes, if not appropriately managed, can also adversely affect stream stability.

- Pollution control is best accomplished by implementing a series of measures that can include source controls, minimizing directly connected impervious area, and construction of on-site and regional facilities to control both runoff and pollution. Implementing measures that reduce the volume of runoff produced by frequently occurring events through infiltration and disconnection of impervious areas is one of the most effective means for reducing the pollutant load delivered to receiving waters.
 - Historic subsurface contamination may be present at some development and redevelopment sites in the City. In such cases, appropriate investigation should be conducted to determine whether infiltration practices should be avoided to prevent subsurface pollutant transport.
9. The stormwater management system should be designed beginning with the outlet or point of outflow from the project, giving full consideration to downstream effects and the effects of offsite flows entering the system. The downstream conveyance system should be evaluated to ensure that it has sufficient capacity to accept design discharges without adverse upstream or downstream impacts such as flooding, stream bank erosion, and sediment deposition. Additionally, the design of drainage infrastructure should account for the historical runoff from upstream sites, recognizing that runoff from future development must be detained at historic rates. Floodplain mapping will account for detention only from regional facilities.
 10. The stormwater management system requires regular maintenance. Failure to provide proper maintenance reduces both the hydraulic capacity and pollutant removal efficiency of the system. The key to effective maintenance is clear assignment of responsibilities to an established entity and a regular schedule of inspections to determine maintenance needs and to ensure that required maintenance is conducted. Local maintenance capabilities should be considered when planning and designing the stormwater management system for a given site or project.
 11. Floodplains should be preserved whenever feasible and practicable. Nature has claimed a prescriptive easement for floods, via its floodplains, that cannot be

denied without public and private cost. Floodplain encroachment must not be allowed unless competent engineering and planning have proven that flow capacity is maintained, risks of flooding are defined, and risks to life and property are strictly minimized. The City's policy is to preserve floodplains to manage flood hazards, preserve habitat and open space, create a more livable urban environment, and protect the public health, safety, and welfare.

12. Sufficient right-of-way for lateral movement of incised floodplains must be reserved. Whenever an urban floodplain is contained within a narrow non-engineered channel, its lateral movement over time can cause extensive damage to public and private structures and facilities. For this reason, whenever such a condition exists, it is recommended that, at a minimum, the channel be provided with grade control structures and a right-of-way corridor be preserved with a width corresponding to normal depth calculations for the future stable channel geometry, plus maintenance access requirements.

2.3 Policies

Consistent with the principles of storm drainage planning described in Section 2.2, the City has developed specific policies that must be followed. These policies are divided into the following categories:

- Drainage planning (Section 2.3.1)
- Flood detention (storage) and stormwater quality facilities (Section 2.3.2)
- Drainage design (Section 2.3.3)
- Operation and maintenance of drainage facilities (Section 2.3.4)
- Storm drainage planning and irrigation facilities (Section 2.3.5)

2.3.1 Drainage Planning

1. All land development and redevelopment proposals must receive full site planning and engineering analyses. A drainage report and plan consistent with the submittal requirements in this Manual is required for all new development and redevelopment in the City's jurisdiction.
2. Stormwater management planning is required in the initial planning stages for all developments and redevelopments to ensure that adequate space is allocated for the drainage facilities.
3. The City encourages multi-purpose uses of storm drainage and detention facilities that are safe, maintainable, and compatible with adjacent land uses, Colorado Water Law and water quality enhancement objectives. Special care must be taken when storm drainage facilities are located in recreational, park, and open space areas to ensure that uses are compatible.

4. The City supports and pursues a jurisdictionally unified approach to drainage to ensure an integrated comprehensive regional drainage plan.
5. In partnership with other local governments, the City will continue to participate in and encourage the development of detailed regional master plans that establish site drainage requirements for development and identify the required public improvements. Master plans will be approved, adopted, and revised as necessary to accommodate changes that occur within the specific drainage basin.
6. Where practicable and feasible, site planning and design techniques should minimize directly connected impervious areas in order to decrease the volume and velocity of stormwater runoff from a site.
7. The City defines a major drainageway as any drainage flow path with a tributary area of 130 acres or more.
8. Major drainageways must remain in open channels and must not be routed through a closed conduit, with the exception of transportation crossings.
9. The City considers stormwater runoff to be an integral part of the City's surface and groundwater resources and recognizes its potential for other uses.
10. The City recognizes that some *intra-watershed* transfer or diversion of runoff occurs within major drainageway watersheds, as sub-watershed boundaries are changed with development. Such diversions and transfers should be minimized to the extent possible. Historic outfall locations to natural drainageways must be maintained, and any potential adverse impacts resulting from transfers between drainage catchments must be addressed by the stormwater drainage design.
11. Historic major drainage pathways must be maintained, and *inter-watershed* transfers of storm drainage must be avoided to the maximum extent practicable. Deviations from this policy may be granted on a case-by-case basis, but only when the following criteria are met:
 - a. No other viable alternative exists.
 - b. No additional potential damage is created by the proposed transfer.
 - c. No injury to water rights is caused.
 - d. No other regulatory requirement is violated.
12. Drainage improvements included in applicable regional drainage master plans, or as required by the City must be designed and constructed with all new development and redevelopment. Prior to implementing master plan recommendations based on modeling, the City may require reasonableness checks of modeling results based on site observations and other information (e.g., maintenance records, flooding problems due to existing pipe size), where

such information is reasonably available. Improvements, as designed and approved, must meet the intent of master plan recommendations.

13. In areas with known drainage problems or water quality impairments, development and redevelopment project plans must include measures that minimize further impacts.
14. All development and redevelopment projects must drain to an acceptable outfall in accordance with the City master drainage plan. Where no approved master drainage plan exists, the applicant must prepare and obtain approval for a master drainage plan for the affected area.
15. Retention ponds may be used to meet stormwater quality requirements when designed in accordance with City-approved criteria and when adequate water rights have been obtained. Retention ponds are not allowed for stormwater detention.
16. The City regulates and manages floodplains in accordance with floodplain requirements in the Pueblo Municipal Code and as described in Chapter 4, *Floodplains*, of this Manual.
17. The City recognizes the possible effects of the drainage system on water rights. In such cases, the Office of the State Engineer should be consulted.
18. Groundwater can adversely impact the construction, capacity, long-term function, and maintainability of stormwater management facilities. Those potential impacts must be quantified to the extent possible and considered during the design of stormwater management facilities. Water quality and pipe capacity will be evaluated by the City before accepting discharges of groundwater to the storm drain system. Any detention system must be 2 feet or more above the seasonal high groundwater. Groundwater inflow into detention systems is not allowed.
19. The Policy of the City is to require that adequate measures be taken to prevent cross lot drainage.

2.3.2 Runoff Reduction, Flood Detention (Storage) and Stormwater Quality Facilities

1. Runoff reduction is required for all development and redevelopment projects with greater than 5,000 square feet and less than 1 acre of disturbance area to reduce the cumulative effect of increased runoff from multiple smaller sites and the urban drainage problems and increased costs of drainage facilities that can result. Single family, infill residential projects that disturb more than 5,000 square feet but create less than 5,000 square feet of new impervious area may be exempt from these requirements at the discretion of the Stormwater Director.
2. To reduce urban drainage problems and the costs of drainage facilities, Full Spectrum Detention (FSD) is required for all development and redevelopment

projects that disturb 1 acre or more, with exceptions as described below. Requirements for drainage and stormwater quality for development and redevelopment projects are described further in this section and in Chapter 13, *Detention* and Chapter 14, *Stormwater Quality*.

Variances from FSD may be granted by the Stormwater Director under the following conditions:

- a. The project is immediately adjacent to a major drainageway or is located within the 100-year floodplain. On these sites, the following conditions must be met:
 - i. The Excess Urban Runoff Volume (EURV), as defined in Chapter 13, *Detention*, must be managed to provide minor event flood attenuation and to protect downstream channel stability.
 - ii. The major drainageway must be capable of safely conveying the fully developed basin 100-year flood.
 - iii. The fully developed 100-year flow from the project must be safely conveyed to the major drainageway without adversely impacting adjacent properties or right of way. At a minimum, a safe conveyance determination must meet the requirements for streets described in Chapter 7 and consider other site-specific factors.
- b. The project is tributary to a publicly owned and maintained regional detention facility designed to accommodate flows from a fully developed basin, and safe and adequate conveyance of 100-year developed flows is provided from the development to the regional facility.

All variances are subject to approval at the sole discretion of the Stormwater Director and may require additional analysis to demonstrate that no adverse effects to the overall drainage system will result from the variance.

3. Flood detention and water quality facilities must be designed to be safe, maintainable, and aesthetically pleasing, serving as community assets rather than liabilities.
4. Planning for water quality and flood detention must be integrated for all development and redevelopment projects. In this context, site planning and design techniques must reduce runoff volumes and velocities to the maximum extent practicable by implementing measures that minimize directly connected impervious area, as specified in Chapter 14, *Stormwater Quality*, of this Manual.
5. All development and redevelopment projects must comply with the terms and conditions of the City of Pueblo's MS4 permit to minimize the discharge of pollutants to receiving waters to the maximum extent practicable through implementation of stormwater control measures (SCMs).

6. Permanent stormwater control measures must be designed to treat stormwater runoff from the fully developed project site, as specified in Chapter 14 of this Manual.
7. All development and redevelopment projects in the City must implement SCMs to control erosion, sedimentation, and pollutant-laden stormwater discharges during construction activities in accordance with Chapter 15, *Construction Site Stormwater Management and Erosion Control*, of this Manual.
8. The City may require implementation of temporary construction SCMs on development and redevelopment sites less than 1 acre in size.
9. Regional or subregional detention and stormwater quality facilities must be designed and constructed prior to development of any properties that are to be served by the facility.

2.3.3 Drainage Design

1. The design criteria presented in this Manual are minimum requirements for stormwater management. This Manual will be revised and updated as necessary to reflect advances in the field of urban drainage engineering and water resources management. All storm drainage facilities must be planned and designed in accordance with this Manual and the Pueblo Municipal Code.
2. All development and redevelopment projects must include planning and design for both the minor (initial) and major drainage systems. The design storm recurrence interval for the minor system is 5 years and for the major storm is 100 years. The minor drainage system must be designed to transport runoff with minimum disruption to the urban environment and to discharge to an acceptable outfall. Initial storm drainage may be conveyed in the curb and gutter of the street, roadside ditch, storm drain, channel, or other conveyance facility, provided that capacity exists under fully developed future conditions. Street conveyance must comply with encroachment limits specified in Chapter 7, *Streets*.
3. The capacity of the minor system of the downstream development must be equivalent to, or greater than, the capacity of the upstream system.
4. The major drainage system must be designed to convey runoff from the 100-year recurrence interval flood to minimize health and life hazards, damage to structures, and interruption to traffic and services, and must discharge to an acceptable outfall.
5. The major drainage system must be designed and sized accounting for the historical runoff from upstream sites, recognizing that runoff from future development must be detained at historic rates. Floodplain mapping will account for detention only from permanent regional detention facilities with a long-term operation and maintenance agreement in effect with the City.

6. Storm runoff must be determined by the Rational Method, Colorado Urban Hydrograph Procedure (CUHP), or CUHP used in combination with the Storm Water Management Model (SWMM), depending on the catchment size and complexity, as determined by the criteria provided in Chapter 6, *Runoff*.
7. Streets are an integral part of the urban drainage system and may be used for drainage in accordance with the limitations identified in Chapter 7, *Streets*, and Chapter 12, *Culverts and Bridges*, of this Manual. Streets must not be used for drainage in a manner that unduly restricts the primary purpose of streets, which is for transportation.
8. No interior building drains are allowed to directly tie into the City's storm drainage system per Pueblo Municipal Code. However, sump pumps are allowed to discharge via surface flow into the drainage system.
9. The design engineer shall perform construction observations at key stages of project construction. The engineer is responsible for confirming that the project is constructed in accordance with the design intent, as stated in Chapter 3, Section 3.4 *Construction Drawings and Specifications*.

2.3.4 Operation and Maintenance of Drainage Facilities

1. Storm drainage facilities, including channels, flood detention and water quality facilities, storm drains, and related appurtenances require ongoing maintenance and periodic repair and restoration to ensure proper functioning. Safe and adequate maintenance access must be provided in designs for all storm drainage facilities. Maintenance requirements and access provisions must be clearly defined in the drainage plan, storm drain construction plan and site plan submittals.
2. Easement widths should be based on maintenance access needs and overflow widths, if any. Drainage easements must be shown on all plats, the drainage plan, and the storm drain construction plan. Plat easement dedication statements shall provide that the City shall have the right, without the necessity at any time of procuring the consent or permission of anyone, to remove any building, fence, tree, street or other improvement or growth located upon such easement that may in any way endanger or interfere with the construction, reconstruction, maintenance, inspection or removal of all or any parts of the storm drainage facilities and to recover the costs thereof, plus an administrative charge of 15% from the owner(s) of the lots or parcels upon which the easements are located.
3. For detention and stormwater quality facilities, the City requires submittal of an Operation and Maintenance Manual.
4. The landowner is responsible for maintenance of storm drainage facilities unless the City has accepted responsibility for such maintenance, the storm drainage facilities are located within dedicated public easements or parcels accepted by

deed from the landowner to the City and no stormwater facility maintenance agreement with respect to the facilities has been executed.

2.3.5 Storm Drainage Planning and Irrigation Facilities

Irrigation facilities and storm drainage facilities are designed for separate purposes and must comply with the following criteria:

1. Irrigation facilities such as ditches and reservoirs must not be used as drainage facilities, except where the requirements of this section are met.
2. In general, irrigation ditches must not be used as basin boundaries when evaluating the interaction of irrigation ditches with a major drainageway for the purpose of basin delineation. Drainage analysis must assume that irrigation ditches do not intercept storm runoff from the upper basin and that the upper basin is tributary to the basin area downstream of the ditch. During major storms, ditches will generally be flowing full, nearly full or sometimes overflowing; therefore, the tributary basin runoff would flow across the ditch. In areas where historical runoff patterns drain into an irrigation ditch, management of runoff must be coordinated with the Stormwater Director.
3. Development and redevelopment projects must avoid discharging into irrigation canals and ditches, except as required by water rights, and must instead direct runoff into historic and natural drainageways. As a general rule, the flat slopes, limited carrying capacities, and potential for abandonment of ditches make them inappropriate for storm drainage usage.
4. Discharge of runoff into irrigation ditches will be approved if all of the following conditions are met:
 - a. The discharge is consistent with the relevant master drainage plan.
 - b. Thorough hydrologic and hydraulic analysis indicates the discharge does not cause adverse impacts.
 - c. The owner's liability for ditch failure is clearly defined.
 - d. Written consent of the ditch company is submitted to the City.
 - e. The practice is determined to be in the City's best interest.
5. Whenever irrigation ditches cross major drainageways within a developing area, the developer must design and construct appropriate structures to separate storm runoff from ditch flows.
6. Any modifications to existing topography or placement of drainage structures that affect water quality or drainage patterns to ditches or other utilities must comply with the criteria listed above.
7. For hydrologic purposes, all private dams must be ignored in the definition of floodplains.

8. For all development and redevelopment projects downstream of irrigation storage facilities, the City requires:
 - a. The developer must obtain flood hazard maps from the Office of the State Engineer to determine dam hazard classifications pursuant to CRS§37-87-123.
 - b. All development and redevelopment projects must be located outside of the reservoir's high-water line based on the design flood for the structure's emergency spillway.
 - c. All development and redevelopment projects must be located outside of the high-water line based on the breach of a dam (except high hazard classified dams that have passed inspection by the Office of the State Engineer in accordance with CRS §37-87-105 et seq.).
9. All development and redevelopment projects must be located outside existing or potential future emergency spillway paths, beginning at the dam and proceeding to the point where the flood water returns to the natural drainage course.

This page intentionally left blank.

Chapter 3.0 Drainage Report and Construction Drawing Submittal Requirements

3.1 Introduction

This chapter describes requirements for Abbreviated Drainage Reports, Master Development Plan Drainage Reports, Preliminary Drainage Reports (PDRs), Final Drainage Reports (FDRs), and requirements for construction drawings and record (as-built) drawings.

Drainage report submittal requirements vary depending on the type of development occurring. Section 3.2 provides general guidelines for report submission. Section 3.3 includes a general description of the content required for each type of report. A detailed description of PDR and FDR requirements is provided in Section 3.4, and a checklist is provided on the City's website and should be completed prior to submission.

Incomplete reports will not be accepted for review. Submission of incomplete reports prolongs the review process and may result in significant delays to project approval.

All subdivisions, resubdivisions, Special Area Plans, planned unit developments (PUDs), commercial site plans or other development(s) (excluding "in-fill" single family residential lots) within the jurisdiction of the City of Pueblo (City) shall submit a PDR, an FDR, and as-built drawings in accordance with the requirements of this chapter. The drainage reports shall be submitted to the City for review by the Stormwater Utility Division.

A pre-application consultation meeting is suggested for all applicants to understand requirements before undertaking a drainage report. Items to be reviewed in the pre-application consultation may include the required procedures, site-specific drainage issues, and specific submittal requirements.

3.2 General Submission Guidelines

All reports shall be submitted electronically through the current City submittal process. Spreadsheets, models and other input/output from technical analyses shall be included in the report and provided electronically in a format that City staff can review. The report shall include a narrative that presents the preliminary or final design submitted for review and shall be prepared by or under the supervision of a professional engineer who is licensed in Colorado. A redlined copy of the drainage report and/or a memo summarizing the comments will be provided to the applicant. The Drainage Report Checklist, completed and submitted by the applicant, will be used to determine the adequacy of the submittal.

Review and approval by other agencies, such as state or federal agencies, other local governments, affected jurisdictions, and other referral agencies, including but not limited

to irrigation companies, may be required for some submittals. The applicant must address referral agency comments and obtain approvals when necessary.

All reports must be signed and stamped on the submittal cover sheet in accordance with Table 3-1. All drainage plans and required maps must be signed and stamped on each sheet.

Table 3-1. Drainage Submittal Requirements

Submittal ¹	Engineer Stamp Required?
Abbreviated Drainage Report	Yes
Master Development Plan Drainage Report	Yes
Preliminary Drainage Report	Yes
Final Drainage Report	Yes
Construction Drawings and Specifications	Yes

¹As-built drawings are required at completion of the project.

3.3 Drainage Report Types

3.3.1 Abbreviated Drainage Report

In the case of a resubdivision, where a complete drainage report has previously been approved by the City for the original subdivision, and the resubdivision does not significantly alter the concepts of the original drainage report, or in other cases where an abbreviated drainage report is determined to be appropriate by the City, the engineer may submit an abbreviated drainage report which conforms to the provisions of this Section.

An Abbreviated Drainage Report may be substituted in lieu of a full drainage report for development sites that meet all of the following qualifying criteria:

1. Prior approval must be obtained from Director of Stormwater or their designee.
2. The property is included in a previously approved drainage plan.
3. The development does not alter the existing drainage pattern.
4. The site currently discharges to an improved drainage channel or existing storm sewer system maintained by a municipal agency.
5. The adjacent surface drainage system will hydraulically accommodate post-development runoff.

The report shall generally follow the requirements of drainage report submittals and contain a cover letter by the engineer which describes the project and references the drainage report under which the project will be constructed. Any changes to the drainage design of the original subdivision shall be fully described and documented in accordance with all provisions of the drainage criteria contained in this manual.

If no design changes are to be made, the engineer shall so state. The City may require drainage design or analysis in addition to that given in the original drainage report if that report is deemed by the City to be incomplete. This may include requiring provisions for erosion control and flow arrows indicating lot drainage which had not been included in the original drainage report. The report shall include copies of the site map and revised drainage plan if applicable.

3.3.2 Master Development Plan Drainage Report

The drainage report for the Master Development Plan shall include, at a minimum, the following:

1. Maps

A map/maps showing the following information:

- A. Township, Range, Section, $\frac{1}{4}$ Section and general location
- B. The boundary of the master-planned area
- C. Existing and proposed zoning
- D. Existing topography with a maximum 10-foot contour interval
- E. Identification of all drainage basins tributary to the master-planned area
- F. All 100-year floodplains within or adjacent to the master-planned area
- G. Proposed street layout within the master-planned area
- H. Adjacent developments, master plans or subdivisions
- I. Drainage paths, with historic and developed flow rates identified at basin and sub-basin boundaries
- J. Natural drainage channels, man-made channels, bridges, culverts, storm sewers, detention ponds, and major erosion control features

2. Inflows from Upstream Basins

Discussion and analysis of the 100-year peak flows from all offsite tributary areas entering the master-planned area and the manner in which this drainage will be conveyed through the proposed development.

The design of drainage infrastructure should account for the historical runoff from upstream sites, recognizing that runoff from future development must be detained at historic rates. Floodplain mapping will account for detention only from regional facilities.

3. Downstream Impacts

Discussion and analysis of the 100-year peak flows leaving the master-planned area and their impact on downstream properties and drainage facilities. Include discussion of any proposed detention facilities. If downstream drainage improvements are required, provide preliminary cost estimates and a phasing plan.

4. Improvements within the Master-planned Area

Discussion of proposed drainage improvements within the master-planned area and preliminary cost estimates of those improvements. A discussion of planned phasing of the improvements should be included.

5. Water Quality Impact

Discussion of the general concept of stormwater quality management planning and water-quality objectives proposed in the master plan. Discussion of measures used to facilitate the general concept for some specific sites if applicable. For details regarding water quality, refer to USDCM Volume 3. This discussion will pertain to all residential development of 1 acre or greater in area, and all commercial and industrial development.

6. References

Include references to existing drainage studies for any tributary areas, if any.

3.3.3 Preliminary Drainage Report

The purpose of a Preliminary Drainage Report (PDR) is to identify and define conceptual solutions to the problems that may occur on-site and off-site as a result of the proposed development. In addition, problems that exist on site prior to development must be addressed during the preliminary phase. The report shall follow the requirements of drainage report submittals excluding hydraulic calculations.

3.3.4 Final Drainage Report

The purpose of the Final Drainage Report (FDR) is to update the concepts and to present the design details for the drainage facilities discussed in the PDR. Also, any change to the preliminary concept must be presented. The FDR shall follow the same format and organization as the PDR. The applicant shall provide a cover letter with the FDR that explains how comments from the City and comments from referral agencies have been addressed and how plans have changed as a result. In addition to the PDR items discussed above, the FDR shall include hydraulic calculations (refer to Section 3.4.2, Appendix A, Section B *Hydraulic Calculations*).

3.4 Requirements for Preliminary and Final Drainage Reports

3.4.1 Report Organization and Content

The drainage report shall be organized as follows:

1. Title Page

Include drainage report, subdivision or commercial site, address, engineer's name, owner's name, and date.

2. Cover Letter

The drainage report shall be transmitted with a cover letter prepared by the professional engineer responsible for the preparation of the report, describing the Project, noting any special conditions or problems encountered on the site, acknowledging that the drainage design and analyses were completed under his/her supervision in accordance with the City's Drainage Criteria Manual and that the design is in conformance with the City approved Master Plan for the drainage basin, if one exists, and presenting the final design for review. The cover letter shall identify any modification to the criteria that may be requested and shall be signed and stamped by the engineer.

3. Drainage Report Checklist

A completed Drainage Report Checklist, signed and stamped by the engineer, shall be included with the drainage report. Reports submitted with incomplete checklists will not be accepted for review. The Drainage Report Checklist may be found in Appendix B of this Manual or on the City's Stormwater Utility webpage.

4. Table of Contents

5. Purpose

Provide a general description of the project and its purpose.

6. General Location and Description

Include the city, county, and state. Discuss how the project site is bounded on each side. Identify the legal description (e.g., township, range, section, $\frac{1}{4}$ section, etc.). Provide names of surrounding developments. Identify the major drainageway in which the property resides (refer to the City's Stormwater Utility webpage for major drainage basins in the City). Identify existing drainage and water quality facilities.

Describe the property, including area (acres or square feet), ground cover (existing and proposed ground cover and vegetation), and characteristics of the major and minor drainageways, including topography and erosion characteristics.

Provide a general description of the project and proposed land use. Identify any existing major irrigation facilities, such as ditches or canals. Describe the history of flooding on the property, if any. Show and describe easements within and adjacent to the site. Identify all outfalls to major drainageways. Identify any areas of known or suspected contamination on or near the site that may have the potential to affect water quality either through soils that are exposed during construction of the site or from infiltration of runoff into soils with existing contamination, as per item 16, *Water Quality*, below.

7. Location Map

A map of sufficient detail to identify the project location including north arrow and major access roadways.

8. Existing Drainage Report/Master Plan

Discuss previous drainage studies for the site that influence or are influenced by the drainage design. Describe how previous studies are considered and affect the drainage for the site. Discuss the relationship to and implications of any adjacent drainage studies. Reference existing drainage reports and the Master Basin Planning Study found on the City's website.

9. Upstream Considerations

Upstream drainage patterns and their impact on the proposed development should be discussed. Identify locations and flow rates of drainage entering the site. Provide detailed hydrologic analysis using 100-year design storm criteria. The design of drainage infrastructure should account for the historical runoff from upstream sites, recognizing that runoff from future development must be detained at historic rates, unless a regional pond has already been constructed which accounts for the upstream developed condition. When dealing with large basins that lie partially outside of the city limits, confer with City staff prior to making runoff design assumptions. Floodplain mapping will account for detention only from regional facilities.

Stormwater detention will be required unless it has already been accounted for in an existing regional detention facility.

10. Downstream Considerations

Identify locations where flow leaves the site and the corresponding 100-year peak flow rates. Discuss drainage impacts on downstream facilities and properties. Discuss any downstream improvements that are to be made in

conjunction with the development. Provide detailed supportive hydrologic and hydraulic analyses.

11. Floodplain Discussion and FIRM

Reference any flood hazard delineation reports and Flood Insurance Rate Maps (FIRMs). FIRMs can be downloaded from the Federal Emergency Management Agency's (FEMA) Flood Map Service Center. Identify the applicable flood zone as indicated on the FEMA FIRM for the site. Indicate wetlands onsite or nearby.

12. Soils Discussion

Provide soil types and hydrologic soil group(s). If infiltration-based stormwater practices will be used, provide infiltration test results. If a geotechnical study has been performed, it may be referenced or appended, and should provide the measured groundwater elevation with bore logs provided in an Appendix.

13. Methods of Analysis

Hydrologic Criteria: Specify design rainfall and design storm recurrence intervals. Identify hydrologic soil groups of the site and of off-site drainage basins. Calculate imperviousness. Describe the runoff calculation method used. Identify the detention discharge and storage calculation method used. Discuss and justify other criteria or calculation methods used that are not presented in or referenced by the criteria in this Manual.

Hydraulic Criteria: Provide capacity analysis of existing and proposed drainage infrastructure. Perform floodplain analyses (if required) – describe methods used, regulatory requirements (Floodplain Development Permits, Conditional Letter of Map Revision, etc.), modifications to the floodplain, etc. Discuss any other drainage facility design criteria used that are not presented in this Manual.

14. Historic Conditions

Discuss historic (or existing) basin characteristics, including area, existing land use, imperviousness, overland and channelized slopes, and other physical parameters used for drainage calculations and analyses. Include general drainage concepts and existing drainage patterns of the property, runoff, and flow. Identify existing stormwater conveyance and storage facilities.

15. Proposed Conditions

Discuss characteristics for each proposed basin, including area, proposed land uses, imperviousness, overland and channelized slopes, and other physical

parameters used for drainage calculations and analyses. Include proposed drainage patterns of the property. Discuss impacts of development on basin characteristics. Discuss content of tables, charts, figures, and drawings presented in the report. Provide design flows shown at design points and detention storage volumes. Describe proposed stormwater conveyances, storage facilities, and outlet structures.

Describe stormwater control measures (SCMs), including physical measures as well as management practices, that will be part of the stormwater management design. Discuss the relationship to both upstream and downstream properties and the impact of the development's drainage on these properties.

Include general discussion of the vegetation plan, including seed mixes and plant types.

Discuss drainage impacts of site constraints such as streets, utilities, ditches, existing structures, and development of site plan. Discuss drainage problems encountered and proposed solutions.

List applicable regulations and permits, and discuss compliance with other local, state, and federal requirements.

Describe and justify any requested variances from the City's drainage criteria and/or any variations from approved master plans. Detailed justification must be provided for any variances requested. Include reference to the specific criterion that is the subject of the variance, a description of the alternative criteria to be applied, and a description of how the intent of the original criteria will be satisfied with the proposed variance. Documentation of approved variances from criteria shall be provided with the Final Drainage Report.

16. Water Quality

Describe how the project will satisfy Municipal Separate Storm Sewer System (MS4) permit construction phase requirements and discuss necessary permit coverage, as applicable. Specifically describe how the project will comply with these requirements, including if a stormwater management plan (SWMP) is required for compliance with the State of Colorado Permit for Stormwater Discharges Associated with Construction Activities.

Describe how the project will satisfy MS4 post-construction requirements, if applicable, and which of the post-construction design standards in the MS4 permit that the project is intended to meet.

Identify any areas of known or suspected contamination on or near the site that may have the potential to affect water quality either through soils that are exposed during construction of the site or from infiltration of runoff into soils with existing contamination. Potential resources for identifying known or suspected contamination are provided in Table 3-2. If known or suspected contamination is anticipated for the site, the applicant must demonstrate coordination with appropriate regulatory agencies, including the Colorado Department of Public Health and Environment, and provide documentation of remediation plans or other measures that will be used to avoid exposing runoff and infiltrated water to contamination.

Describe the control measures necessary to prevent the potential for illicit discharge from site activities and general concepts for erosion, sediment, and pollution prevention. Discuss compliance with other local, state, and federal requirements.

Table 3-2. Resources for Identification of Known or Suspected Contamination on Project Sites and within a 1-mile Radius¹

Map/Database	Description
CDPHE Environmental Records Map	Colorado Department of Public Health and Environment (CDPHE) Database and map including solid waste facilities, Voluntary Cleanup (VCUP) sites, sites with institutional controls such as covenants required by the state, Brownfields sites, National Priority List (NPL) sites, Resource Conservation and Recovery Act (RCRA) sites, Uranium Mill Tailings Remedial Action (UMTRA) program sites.
OPS Petroleum Release Events in Colorado	Underground Storage Tank (UST) system and Aboveground Storage Tank (AST) system petroleum release events, with their associated locations, contacts for remediation, and status in relation to currently being investigated, assessed, remediated, obtaining closure, or closed, dating back to 1986. Data provided by the State of Colorado, Department of Labor & Employment, Division of Oil & Public Safety (OPS).

¹These resources are provided for reference purposes only. This is not intended to be a comprehensive list of resources. It should be used as an initial screening tool only. If there is known or suspected contamination on or near a site, it is the responsibility of the applicant to identify such conditions through appropriate tools including the ones listed below, others, or an environmental site assessment conducted by a qualified environmental professional and to coordinate, as necessary, with appropriate regulatory agencies.

17. Maintenance

Discuss maintenance responsibilities of the drainage facilities and where the legally binding document showing the responsible party can be found (e.g., the Stormwater Facility Maintenance Agreement (SFMA) and/or Plat dedication statement, or if the City has agreed to take over maintenance). Identify

easements and tracts for drainage purposes, including conditions and limitations for use. If the owner is responsible for maintaining the drainage facilities, discuss the owner's obligations to the City per the SFMA and O&M Manual (e.g., annual reporting).

18. Conclusion

Discuss how the proposed drainage design is in compliance with the City's Drainage Criteria Manual, MS4 permit, and floodplain rules and regulations. Summarize any requested variances.

Summarize overall effectiveness of stormwater design concept to properly convey, store, and treat stormwater. Discuss compatibility of proposed development with approved master plans. Discuss drainage impacts of proposed development on upstream and downstream properties.

19. References

Reference all criteria, master plans, reports, or other technical information used in the development of the designs discussed in the drainage report.

3.4.2 Appendices

1. Appendix A – Hydrologic and Hydraulic Computations

A. Hydrologic Calculations

- i.* State assumptions for impervious percentages of upgradient and downgradient properties per City's planning department.
- ii.* For sites that receive off-site runoff, provide a diagram showing relationship/connectivity of basins, conveyance facilities, detention basins, and design points.
- iii.* Provide historic and fully developed runoff computations for existing and proposed land uses. This should include, at a minimum, minor and major storm runoff calculations for each sub-basin and design point.
- iv.* For each sub-basin and design point, document the peak discharge rates for the minor and major events.
- v.* Provide input and output listings for all models and spreadsheets used for hydrologic analysis and document rationale for input and assumptions.
- vi.* In cases where hydrograph-based analysis is used, provide representative minor and major event hydrographs at key design points.
- vii.* Provide detention area/volume capacity and outlet capacity calculations. Provide stage-area-storage-discharge tables for all water quality and detention facilities.

B. Hydraulic Calculations (Applicable to Part II of the Subdivision process)

- i.* Provide culvert capacity calculations, if applicable.

- ii. Provide street capacity and inlet calculations.
- iii. Include storm drain capacity calculations, including hydraulic and energy grade lines (HGLs and EGLs), if applicable.
- iv. Provide documentation of open channel design, low flow (trickle) channel design, stabilization, and grade control improvements. Provide water surface profiles for all open channels for the minor and major event.
- v. Describe energy dissipation at storm drain and culvert outlets and provide supporting calculations.
- vi. Document downstream/outfall system capacity to the major drainageway system.
- vii. Supporting calculations/information for spillway design is included.
- viii. Spillway design includes a determination of WSE during a 100% blocked outfall structure.
- ix. Detailed documentation of HGL and EGL calculations, including methods used, loss coefficients, and other assumptions. Plan and profiles are required for all conveyances and storage facilities.
- x. Model input and output for hydraulic models used such as HEC-RAS, HY-8, and City workbooks (found on the City's Stormwater Utility webpage).
- xi. Description of hydrologic or hydraulic routing methods used and input parameters.

C. Water Quality

- i. Provide completed Pueblo worksheets for computation of the water quality capture volume (WQCV), excess urban runoff volume (EURV), detention storage volumes, release rates, and drain times.
- ii. Provide detailed documentation of design elements, including the outlet, inlets and forebays, facility bottom/low flow (trickle) channel, micropool, and other details.
- iii. Stormwater Detention and Infiltration Design Data (SDI) Worksheet (downloadable from the MHFD website as the *Compliance Design Data Workbook*), or acceptable alternative calculations for upload to the State Compliance Portal, demonstrating compliance with state law regarding maximum detention drain times. While much of the information in this workbook overlaps with the *Pueblo-Detention* workbook, the SDI Worksheet is in the correct format for the State Engineer's Office portal and its use is recommended for the purpose of demonstrating compliance with state law. *Pueblo-Detention* should still be used for other computations.

2. Appendix B – Standard Design Charts and Tables

3. Appendix C – Floodplain Maps

- 4. **Appendix D – Soils Map:** Provide soils map from Natural Resource Conservation Service (NRCS) and accompanying table with percentages of each soil type (not entire report).

5. Appendix E – Maps

- A. *Historic Drainage Map (should be legible when printed on 11" x 17"). Scale 1" = 10' to 1" = 100', as required to show sufficient detail.*
- B. *Proposed Drainage Plan (should be legible when printed on 11" x 17"). Scale 1" = 10' to 1" = 100', as required to show sufficient detail.*
- i. Title block
 - ii. Engineer's statement.
 - iii. Overall drainage basin boundary and sub-basin boundaries.
 - iv. Existing and proposed contours at 2 ft. maximum intervals. In terrain where slope exceeds 10%, maximum interval is 10 ft.
 - v. Property lines and easements with purposes noted.
 - vi. Streets and R.O.W. lines.
 - vii. Flow arrows.
 - viii. Accumulation of flows (cfs) at design points.
 - ix. Show paths chosen for computation of time of concentration.
 - x. Existing and proposed utilities, type, and size.
 - xi. Show *Design Point Summary Table* (minor and major flows), *Basin Summary Table* (minor and major flows), and *Pipe Routing Summary Table* (flows, sizes, material types, slopes, and total length).
 - xii. Impervious and pervious area table.
 - xiii. Existing and proposed storm sewers, inlets, and manholes. For storm sewers show size, slope, material, flow rate and flow arrows. For inlet show type and length. Show diameter of manholes.
 - xiv. Existing and proposed culverts. Show size, material, and flow rate. Show headwalls, wingwalls and riprap pad size and type. Delineate 100-year ponding limits.
 - xv. Existing and proposed open channels. Show typical cross sections with water surface elevations. Identify channel lining, slope, flow rate and velocity, and details of erosion control features and low flow (trickle) channel.
 - xvi. Existing and proposed detention ponds. Show grading plan, storage volumes for 10- and 100-year ponding elevations. Delineate 100-year ponding inundation limits. Show outlet structure, spillway, and low flow (trickle) channel details.
 - xvii. Existing natural channels within 150 feet of project. Delineate 100-year floodplain (and erosion buffer zone 25 feet from floodplain, if applicable). Show bridges, culverts, and erosion control features if any.
 - xviii. Drainage details (outlet structures, restrictor plates, orifice plate, spillway, riprap, etc.). Spillway plan should show 100-year WSE with 100% blocked outfall structure.
 - xix. Professional engineer's seal and signature on record copy.

C. Erosion and Sediment Control Plan or Stormwater Management Plan (*should*

be legible when printed on 11" x 17"). Scale 1" = 10' to 1" = 100', as required to show sufficient detail.

3.4.3 Engineer's Statement

The drainage report shall be acknowledged by the engineer as follows:

"I hereby state that this (Preliminary/Final) Drainage Report for the (Name of Development) was prepared by me (or under my direct supervision) in accordance with the provisions of the City of Pueblo's Drainage Criteria Manual for the owners thereof. I understand that the City of Pueblo does not, and will not, assume liability for drainage facilities designed by others."

Name

Licensed Professional Engineer

State of Colorado No. _____

(Affix Seal)

3.4.4 Drawing Conventions

Table 3-3. Drawing Symbol Criteria and Hydrology Review

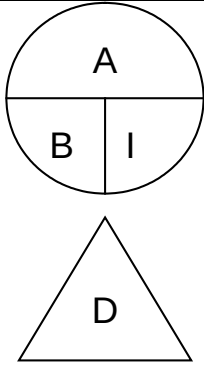
 A = Basin Designation B = Area in Acres I = % Imperviousness D = Design Point Designation				
Summary Runoff Table (to be placed on Drainage Plan)				
Design Point	Contributing Basin(s)	Contributing Area (acres)	5-Year Runoff (cfs)	100-Year Runoff (cfs)
X	XX	XX.XX	XX.X	XX.X

Table 3-4. Detention Basin Summary Table for Drainage Construction Plan

Design Volume	Water Surface Elevation (feet)	Volume (cubic feet or acre-feet)	Maximum Release Rate (cfs)
Water Quality Capture Volume			
Excess Urban Runoff Volume			
100-year Storage Volume			

3.5 Construction Drawings and Specifications

The information required for the plans shall be in accordance with sound engineering principles, this Manual, the City of Pueblo's *Standard Construction Specifications and Standard Details*, and the City requirements for subdivision designs. Construction documents shall include geometric, dimensional, structural, foundation, bedding, hydraulic, landscaping, and other details as needed to construct the storm drainage facility. Construction plans shall be signed by a licensed professional engineer as being in accordance with the City-approved drainage report/drawings. Refer to the Colorado Department of Transportation's Standard Plans ("M-Standards") for additional design details not covered in these Standards and Specifications.

Where drainage improvements are to be constructed in accordance with the approved FDR, the construction plans and specifications shall be submitted for review and approval at time of application for a building permit. A reproducible copy of the approved plans shall be submitted to the City for file. The plans and specifications for the drainage improvements shall include:

1. General Information Required for All Drainage Improvement Projects

- A. Cover sheet including:
 - i. Vicinity map.
 - ii. Professional engineer certification, seal, and signature on record copy.
 - iii. Title block which identifies the Project, the date, the firm that prepared the plans, the initials of the preparer and the professional engineer that is responsible for the design. Sheet index.
 - iv. Standard notes.
- B. Overall utility plan showing water, sanitary, and storm drain lines and facilities.

C. Grading plan using the North American Vertical Datum of 1988 (NAVD88).

D. Drainage plan using NAVD88.

E. Site information including:

- i. Property and right-of-way lines, existing and proposed easements, tracts, structures, fences, and other land features.
- ii. Relation of site to current floodplain boundaries.
- iii. Maintenance access roads. Include longitudinal and cross section slopes.
- iv. Utilities adjacent to or crossing stormwater management facilities.
- v. Drainage details (Outlet structures, restrictor plates, orifice plate, spillway, riprap, etc.)
- vi. Any non-City standard details.
- vii. Finished floor elevations of buildings adjacent to floodplains or open channels. If a building's finished floor elevation is not known, a note must be added to the plan that the finished floor elevation must be at least 1-foot above the 100-yr Water Surface Elevation.

2. Specific Design Feature Information

A. Storm drains and culverts

- i. Plan and profile of proposed pipe installations, inlets, manholes, junction boxes, and outlet structures with pertinent elevations, dimensions, types, designs, and pipe-full flow rates and horizontal controls shown (to be included on street construction plans). Plan and profile must be included on same sheet and shall be provided for laterals as well as mains. Include culvert inlet/outlet erosion control structures and design water surface profile.
- ii. All storm mains and laterals are required to be on their own independent centerline stationing at minimum 100' intervals.
- iii. There is no minimum length of laterals. However, laterals less than 5 feet in length will require flow fill adjacent to the pipe to compensate for difficulties with soil compaction.
- iv. Impervious area in square feet.
- v. *Pipe Summary Table* including size, type, and total length.
- vi. Major storm HGLs and EGLs if the facility is designed for events greater than the minor storm.
- vii. Pipe outlet protection shown on plan and profile views.
- viii. Utilities adjacent to or crossing storm drain or culvert alignment in plan and profile.
- ix. 1" = 10' scale, minimum, grading details for all pipe and culvert inlets and outlets.

B. Detention/storage facilities

- i. Detention basin grading, low flow (trickle) channel, inlet, outlet, and emergency overflow spillway locations.
- ii. Detention facility summary including volumes and release rates – provide on plans.
- iii. Forebay, micropool, low flow (trickle) channel (including longitudinal slope and cross section), and outlet construction details, including safety features, such as racks and openings.
- iv. Maintenance access to facility at inlets and outlet and access to facility to clean out accumulated sediment and pollutants.
- v. Design details for inlets and outlet, including hydraulic outlet control.
- vi. Revegetation specifications.
- vii. Finished floor elevations of all existing and proposed structures within the property.

C. Open channels, swales, and channel stabilization

- i. Plan view showing horizontal locations of existing and proposed channels and swales, including locations of grade control structures and stabilization measures, such as check structures, drop structures, toe protection, bank stabilization, low flow (trickle) channels, with appropriate horizontal controls, safety features, etc.
- ii. Profile along channel alignment with all invert elevations and top-of-channel bank elevations and design flow rates. Include typical cross-sections.
- iii. Side tributary channels and pipe outlets.

D. Permanent Stormwater Control Measures

- i. Control measures shall be shown on the grading plan.
- ii. Provide SCM volumes and release rates on plans.

E. Construction Erosion and Sediment Control Measures and Details

- i. Erosion and Sediment Control Plan (ESCP) or Stormwater Management Plan (SWMP), as applicable. See Chapter Chapter 15.0 *Construction Site Stormwater Management and Erosion Control*, Appendix C or D, or the City's Stormwater Utility webpage for guidance regarding the development of an ESCP or SWMP.

3.6 Record Drawings (As-Built Drawings) for Final Acceptance (Subdivisions) & Certificate of Occupancy (Commercial)

Record drawings for all drainage improvements are to be submitted to the City of Pueblo's Stormwater Utility Division for acceptance of a subdivision or for a Certificate of Occupancy. Submission shall include an electronic copy in pdf format including the engineer's statement, engineer or surveyor's stamp, signature, and date.

A professional engineer or land surveyor registered in the State of Colorado shall undertake such investigation as may be necessary to determine or confirm the as-built detention pond volumes and surface areas at the design depths, outlet structure sizes and elevations, storm drain sizes and invert elevations at inlets, manholes and discharge location, representative open channel cross-sections, and dimensions of all the drainage structures. "As-built" surveys must include a "red-line" design set that verifies the as-constructed project matches the intent of the original design drawings and which indicates any changes which were made to the original design drawings during construction. If the improvements for a project are constructed in phases, as-built drawings may be required at the completion of each phase. Acknowledgment of the record drawings is required as follows:

"To the best of my knowledge, belief, and opinion, the drainage facilities were constructed in accordance with the design intent of the approved drainage report and plan sheet(s)."

Name
Licensed Professional Engineer or Land Surveyor
State of Colorado No. _____
(Affix Seal)

The City Engineer will compare the record drawing information with the construction drawings. Acceptance of a subdivision or a Certificate of Occupancy will only be issued if:

1. The record drawing information demonstrates (with accompanying calculations) that the construction is in compliance with the design intent, and
2. The record drawings are acknowledged and stamped by a professional engineer or land surveyor.

This page intentionally left blank.

Chapter 4.0 Floodplains

4.1 Introduction

The City of Pueblo (City) is a participant in the National Flood Insurance Program (NFIP) and has adopted regulations that meet or exceed the minimum requirements for participation in the NFIP, which is administered by the Federal Emergency Management Agency (FEMA). These regulations include adoption of a floodplain ordinance, designation of a floodplain administrator, and management of activities within the mapped regulatory floodplain through a floodplain permitting process.

Mapped regulatory floodplains within the City include major drainageways, such as Fountain Creek, and also include smaller channels that only flow intermittently, such as the Goodnight Arroyo (see **Photograph 4-1**).



Photograph 4-1. Fountain Creek (left photo) is a major drainage that runs through the City of Pueblo and is designated as a FEMA Special Flood Hazard Area (SFHA). Goodnight Arroyo (right photo) is a smaller channel with intermittent flow which is also located within the City of Pueblo and is mapped as a SFHA. These examples demonstrate the wide range in channel types that are mapped as regulatory floodplains by FEMA.

This chapter provides an overview of the City's Floodplain Rules and Regulations but is not intended to be a comprehensive presentation of the Code of Ordinances or its requirements. To the extent there are any inconsistencies in interpretation between this chapter and the Code of Ordinances, the interpretation based on the Code of Ordinances will prevail. For additional information, consult the City's Code of Ordinances, as may be amended from time to time, including Section 17-9-3 General Provisions, Section 17-9-4 Administration, and other sections referring to flooding or the 100-year floodplain.

4.2 Floodplain Mapping

4.2.1 Floodplains Designated by FEMA

FEMA's National Flood Hazard Layer provides the current effective floodplain mapping including the effects of Letters of Map Revision (LOMRs) or Letters of Map Revision Based on Fill (LOMR-F) since the effective date of the Flood Insurance Rate Map (FIRM) panels. Each of these panels delineates the area inundated by the 100-year flood, or the Special Flood Hazard Area (SFHA). The 100-year water surface elevation is called the base flood elevation, or BFE. A floodplain map should be obtained from the FEMA Map Service Center at www.fema.gov.

Regulatory Floodplain Terms

Special Flood Hazard Area (SFHA): The 100-year floodplain mapped by FEMA.

Base Flood Elevation (BFE): Water surface elevation of a flood having a 1% chance of occurrence, or a 100-year flood event.

Floodway: The portion of the floodplain that must remain undisturbed to avoid raising the BFE more than the regulatory limit (0.5 feet per Pueblo Code of Ordinances and state requirements).

Floodplain Fringe: The portion of the regulatory floodplain, or SFHA, not in the floodway.

Applicants should evaluate the floodplain map to determine the boundaries of the SFHA. If development will result in the alteration of a major drainageway, the developer is responsible for revising the floodplain maps at their expense. The City's policy is to require a Conditional Letter of Map Revision (CLOMR) prior to construction when a FEMA map revision (LOMR) will be required following construction. This policy also applies to CLOMRs and LOMRs based on fill (CLOMR-Fs/LOMR-Fs). All analysis and associated costs of obtaining a CLOMR and LOMR, including the application fees to FEMA, are the responsibility of the developer. All necessary documentation must be approved by the City and submitted to FEMA to process the CLOMRs and LOMRs.

4.2.2 Floodplains Not Mapped by FEMA

For all development within 150 feet of a natural channel that is not currently mapped by FEMA, but which is identified by the Floodplain Administrator as a major drainageway, the 100-year floodplain and erosion buffer zone shall be delineated. Erosion limit lines 25 feet beyond the 100-year floodplain are required for all natural channels and must be shown on the plat. Variances may be considered if channel stabilization measures are implemented. Additional requirements may be requested by the Floodplain Administrator in consideration of future conditions.

4.3 General Provisions

The City of Pueblo Code of Ordinances, Section 17-9-5, as may be amended from time to time, includes provisions for flood hazard reduction. See the most currently applicable Code of Ordinances for additional information.

4.3.1 Floodplain Compliance Required

All development proposals shall conform to the requirements of the City floodplain regulations and policies. In addition, all developments in the City located within mapped floodplains shall comply with the following additional regulations:

1. All development proposals shall be consistent with the need to minimize flood damage.
2. All development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water located and constructed to minimize flood damage.
3. All development proposals shall have adequate drainage provided by the developer to reduce exposure to flood damage.
4. All lots within the regulatory floodplain shall be noted. When deemed necessary for the health, safety, or welfare of the present and future population of the area, the City may prohibit the development of any portion of a property that lies within the regulatory floodplain of any stream or drainage course.

For development in mapped floodplains, a Conditional Letter of Map Revision (CLOMR) must be issued by FEMA prior to the City issuing a building permit. "As-built" surveys, which include a "red-line" design set that verifies the as-constructed project matches the intent of the original design drawings and which indicates any changes which were made to the original design drawings during construction, must be submitted for construction in or near the regulatory floodplain prior to issuance of a Certificate of Occupancy.

4.3.2 General Standards

When allowed, all new construction or substantial improvements in the floodplain, as defined by the NFIP, shall be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting hydrodynamic and hydrostatic loads.

All new construction or substantial improvements shall be constructed:

1. With the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, at least 1 foot above the base flood elevation.
2. With materials and utility equipment resistant to flood damage.
3. Using methods and practices that minimize flood damage.
4. With electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed or located to prevent water from entering or accumulating within the components during conditions of flooding.

All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Similarly, new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters, and on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4.3.3 Structures

4.3.3.1 Residential Structures

Residential structures, if permitted, shall have the lowest floor (including the basement) elevated to 1 foot above the base flood elevation.

4.3.3.2 Nonresidential Structures

Nonresidential structures, if permitted, shall either have the lowest floor (including the basement) elevated to 1 foot above the base flood elevation or, together with the attendant utility and sanitary facilities, comply with the following standards:

1. Be flood-proofed so that below the required elevation the structure is watertight with walls substantially impermeable to the passage of water.
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
3. Be certified by a licensed professional engineer or architect that the design and method of construction are in accordance with the accepted standards of practice for meeting the provisions of this code. Such certification shall be provided to the Floodplain Administrator.
4. For critical facilities (e.g., nursing homes, hospitals, fire stations, schools, above ground gasoline or propane storage or sales), no new, substantially improved, or additions shall be permitted in the floodplain unless the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, are at least 2 feet above the base flood elevation. New critical facilities shall, when practicable as determined by the City, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event. Note: a full list of critical facilities for purpose of floodplain regulations is provided in Section 17-9-5(h) of the Pueblo Code of Ordinances.

4.3.4 Floodways

Floodways are hazardous areas due to the depth and velocity of flood waters that carry debris, and which have significant erosion potential. Accordingly, all encroachments into floodways are prohibited. Specifically, but without limitation, this means that no fill, construction, substantial improvements, or other development shall be permitted within the floodway unless it has been demonstrated through hydrologic and hydraulic

analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the boundaries of the City during the occurrence of the base flood discharge, as demonstrated and documented with a No-Rise Certification, as shown below. If so demonstrated, any new construction or substantial improvements must comply with the standards in the Code of Ordinances.

The following language may be used for a No-Rise Certification:

This is to certify that I am a licensed professional engineer licensed to practice in the State of Colorado. It is further to certify that the attached technical data supports the fact that the proposed [insert name of development] will not impact the 100-year flood elevations, floodway elevations, or floodway widths on [insert name of drainage that is the source of flooding] at published or unpublished cross-sections in the FEMA flood insurance study in the vicinity of the proposed development. Attached are the following documents that support my findings:

- 1.) _____
- 2.) _____
- 3.) _____

Signature: _____
Name (Printed): _____
Company Name: _____
Date: _____
Phone Number: _____
Address: _____

P.E. Number and Stamp _____

4.3.5 Properties Removed from the Floodplain by Fill

If a Floodplain Development Permit is issued, new residential and non-residential structures and additions to existing or substantially improved structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to at least 1 foot above the base flood elevation that existed prior to the placement of fill.

4.4 Administration

4.4.1 Floodplain Administrator

The Director of the Department of Stormwater Utility is the appointed Floodplain Administrator in the City and is responsible for reviewing and processing all Floodplain Development Permit applications and interpreting floodplain maps within the City. The Floodplain Administrator approves or denies Floodplain Development Permit applications based on state and local floodplain regulations. For a full list of the duties and responsibilities of the Floodplain Administrator, please see Section 17-9-4(b) of the Pueblo Code of Ordinances.

4.4.2 Floodplain Development Permits

A Floodplain Development Permit is required prior to commencement of any construction, development activity, or storage of materials within the regulatory floodplain. The Floodplain Administrator reviews applications for Floodplain Development Permits to determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard and is authorized to approve or deny the application based on the approval criteria below.

A Floodplain Development Permit may be approved if the Floodplain Administrator finds that the following criteria are met:

1. The applicant has obtained all necessary federal, state, and local permits.
2. If alteration or relocation of any watercourse is involved, the applicant has notified all adjacent communities and the Colorado Water Conservation Board (CWCB) of the alteration or relocation and has submitted evidence of such notification to FEMA. The Floodplain Administrator must also find that the flood-carrying capacity within the altered or relocated portion of the watercourse is not diminished.
3. The danger that materials may be swept onto other lands or cause injury to others is minimal.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner and adjacent upstream and downstream property owners is minimal.
5. The proposed use is compatible with existing and anticipated development as set forth in, or reasonably inferred from, the comprehensive plan.
6. The safety of access to the property in times of flood for ordinary and emergency vehicles is adequate.
7. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, flood channels, and

stream corridors, and public utilities and facilities such as sewer, gas, electrical, and water systems are not excessive.

8. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site are minimized.
9. Alternative locations for the proposed use that are not subject to flooding or erosion damage do not exist.
10. The proposed use minimizes disturbing the natural topography of the floodplain (or restores degraded sections of stream and floodplains), promotes passive flood mitigation strategies, and preserves native wildlife habitat and recreational opportunities to the maximum extent feasible given the benefits of the proposed development.

The Floodplain Administrator has the authority to place special conditions on approval of Floodplain Development Permits as described in the Code of Ordinances.

4.5 Allowable Uses

4.5.1 Allowable Uses within SFHAs

Public recreation uses such as parks, golf courses, hiking, biking, and horse trails; and public/utility facilities such as transmission lines, pipelines, roadways, and bridges may be permitted in SFHAs subject to a Floodplain Development Permit. In addition, uses in the floodway shall only be permitted with a certification of no rise greater than 0.00 feet (see Section 4.3.4 of this chapter for details regarding a No-Rise Certification).

4.5.2 Allowable Uses in Approximate Flood Zones

For approximate flood zones (Zone A) where a floodway has not been established, the uses identified above in Section 4.5.1 may be allowed, subject to obtaining an approved Floodplain Development Permit and satisfying any additional state or federal floodplain permitting requirements. Because a floodway is not established in approximate flood zones, the applicant must demonstrate that the 100-year recurrence interval peak flow can be conveyed through the portion of the floodplain that remains unobstructed with a rise of no more than 0.5 feet.

4.5.3 Other Uses

Uses not identified in this section shall be submitted to the Floodplain Administrator for review. If approved, the Floodplain Administrator may require any conditions and restrictions deemed necessary to protect the public health, safety, and welfare, provided they are consistent with these standards and regulations.

4.6 Elevation Certificates

Elevation certificates must be submitted to the City prior to issuance of the certificate of occupancy for all structures built within floodplain boundaries as defined by FEMA Flood Insurance Rate Maps.

4.7 Variances

The applicant may request variances from floodplain regulations described in this chapter and in the Code of Ordinances. The applicant requesting a variance must first obtain input from the Floodplain Administrator on whether a variance would be considered at all (many of the floodplain rules and regulations are minimum requirements that are inflexible). If the Floodplain Administrator determines that a variance may be considered, the applicant shall prepare a written request for the variance with supporting technical analysis, signed, and stamped by a licensed professional engineer.

In general, the variance must pertain to the land itself – not to the structure, its inhabitants, or the property owner. A variance will not be granted for a problem that can be resolved through other means, even if the alternative is more expensive, more complicated, requires that the parcel be put to a different use, or requires the applicant to build elsewhere (FEMA 2010).

Federal regulations (44 CFR 60.6(a)) state that a community can only issue a variance upon “a determination that failure to grant the variance would result in exceptional hardship to the applicant.”

Applications for variances to the floodplain regulations will be reviewed and approved or denied by the Floodplain Administrator.

Chapter 5.0 Rainfall

5.1 Introduction

Design rainfall data to be used to complete hydrologic analyses described in the Runoff chapter of this Manual are presented in this section. This chapter provides:

- 1) point precipitation values for the City of Pueblo (City)
- 2) information on the Colorado Urban Hydrograph Procedure (CUHP) temporal storm distribution
- 3) an intensity-duration-frequency table for use with the Rational Method

All hydrological analyses within the City must use the rainfall data presented herein for calculating storm runoff. In some cases, the designer may need to consider events more extreme (less frequent) than the 100-year storm (e.g., for public safety, critical facilities).

The design storms and intensity-duration-frequency tables for the City were developed using the rainfall data from the *National Oceanic and Atmospheric Administration Atlas 14, Precipitation-Frequency Atlas of the United States, Volume 8* (NOAA Atlas 14) (NOAA 2013) and information from the MHFD manual.

5.2 Rainfall Depth-Duration-Frequency Values

Based on mapping and data presented in the NOAA Atlas 14, variations in rainfall depths across the City are minimal, and rainfall characteristics for the City can be represented by a single rainfall zone.

Rainfall depth-duration-frequency data are needed for both the Rational Method and for the Colorado Urban Hydrograph Procedure (CUHP). The 1-hour point rainfall depth is used by CUHP to generate a hyetograph that is used for rainfall-runoff computations. For watersheds 15 square miles and larger, the 6-hour rainfall depth is also required for use with CUHP.

Table 5-1 summarizes point rainfall values for various durations. The point rainfall depths in Table 5-1 were taken from NOAA Atlas 14 for the Pueblo Department of Public Works location, which is representative of rainfall Citywide. The values in this table are the default rainfall values used in the City's design workbooks and may be applied to any area within City limits.

Table 5-1. City of Pueblo Point Rainfall Depths

Return Period	Rainfall Depth (inches)							
	5-minute	10-minute	15-minute	30-minute	1-hour	2-hour	3-hour	6-hour
2-year	0.27	0.39	0.48	0.74	0.94	1.14	1.19	1.29
5-year	0.35	0.52	0.63	0.97	1.22	1.46	1.53	1.65
10-year	0.43	0.63	0.77	1.18	1.48	1.77	1.85	1.98
25-year	0.55	0.81	0.99	1.50	1.88	2.25	2.35	2.50
50-year	0.66	0.96	1.17	1.78	2.23	2.67	2.78	2.95
100-year	0.77	1.13	1.38	2.09	2.61	3.13	3.26	3.45
500-year	1.07	1.57	1.92	2.91	3.63	4.35	4.54	4.79
Date: September 2021		Reference: NOAA Atlas 14, Volume 8, Version 2, 2013. Data reported for the City of Pueblo Department of Public Works.						

The point rainfall depths in Table 5-1 must be distributed temporally in 5-minute increments for use with CUHP. Area adjustment of these point rainfall values is required based on watershed size when using CUHP.

CUHP automatically generates the rainfall hyetograph based on the specified 1-hour point precipitation value and calculates temporal adjustments to rainfall distribution for various storm events and watershed sizes in accordance with the *Rainfall* chapter of the MHFD Manual. Refer to the MHFD Manual for additional documentation of hyetographs for watersheds of varying sizes.

Table 5-2 provides the rainfall depth-duration-frequency values calculated for use with the Rational Method in small watersheds that are 90 acres or less in size.

Table 5-3 provides intensity-duration-frequency data, which is also for use with the Rational Method. If the computed value of the time of concentration falls between the values listed in Table 5-2 or 5-3, linear interpolation should be applied to find the depth or intensity associated with the calculated time of concentration. Figure 5-1 shows intensity-duration-frequency curves for rainfall in the City of Pueblo.

**Table 5-2. Rainfall Depth-Duration-Frequency Values for Use with the Rational Method
(for Watersheds of 90 Acres or Less)**

Time (minutes)	Rainfall Depth (inches)					
	2-year	5-year	10-year	25-year	50-year	100-year
5	0.27	0.35	0.43	0.55	0.66	0.77
10	0.39	0.52	0.63	0.81	0.96	1.13
15	0.48	0.63	0.77	0.99	1.17	1.38
20	0.57	0.74	0.91	1.16	1.37	1.62
25	0.66	0.85	1.04	1.33	1.58	1.85
30	0.74	0.97	1.18	1.50	1.78	2.09
35	0.78	1.01	1.23	1.56	1.86	2.18
40	0.81	1.05	1.28	1.63	1.93	2.26
45	0.84	1.09	1.33	1.69	2.01	2.35
50	0.87	1.14	1.38	1.75	2.08	2.44
55	0.91	1.18	1.43	1.82	2.16	2.52
60	0.94	1.22	1.48	1.88	2.23	2.61

**Table 5-3. Rainfall Intensity-Duration-Frequency Values for Use with the Rational Method
(for Watersheds of 90 Acres or Less)**

Time (minutes)	Rainfall Intensity (inches/hour)					
	2-year	5-year	10-year	25-year	50-year	100-year
5	3.22	4.22	5.16	6.62	7.87	9.24
10	2.35	3.09	3.78	4.85	5.77	6.78
15	1.92	2.51	3.07	3.94	4.68	5.52
20	1.70	2.22	2.72	3.47	4.12	4.85
25	1.57	2.05	2.50	3.19	3.78	4.45
30	1.49	1.94	2.36	3.00	3.56	4.18
35	1.33	1.73	2.11	2.68	3.18	3.73
40	1.21	1.58	1.92	2.44	2.90	3.40
45	1.12	1.46	1.77	2.25	2.67	3.13
50	1.05	1.36	1.66	2.10	2.50	2.92
55	0.99	1.29	1.56	1.98	2.35	2.75
60	0.94	1.22	1.48	1.88	2.23	2.61

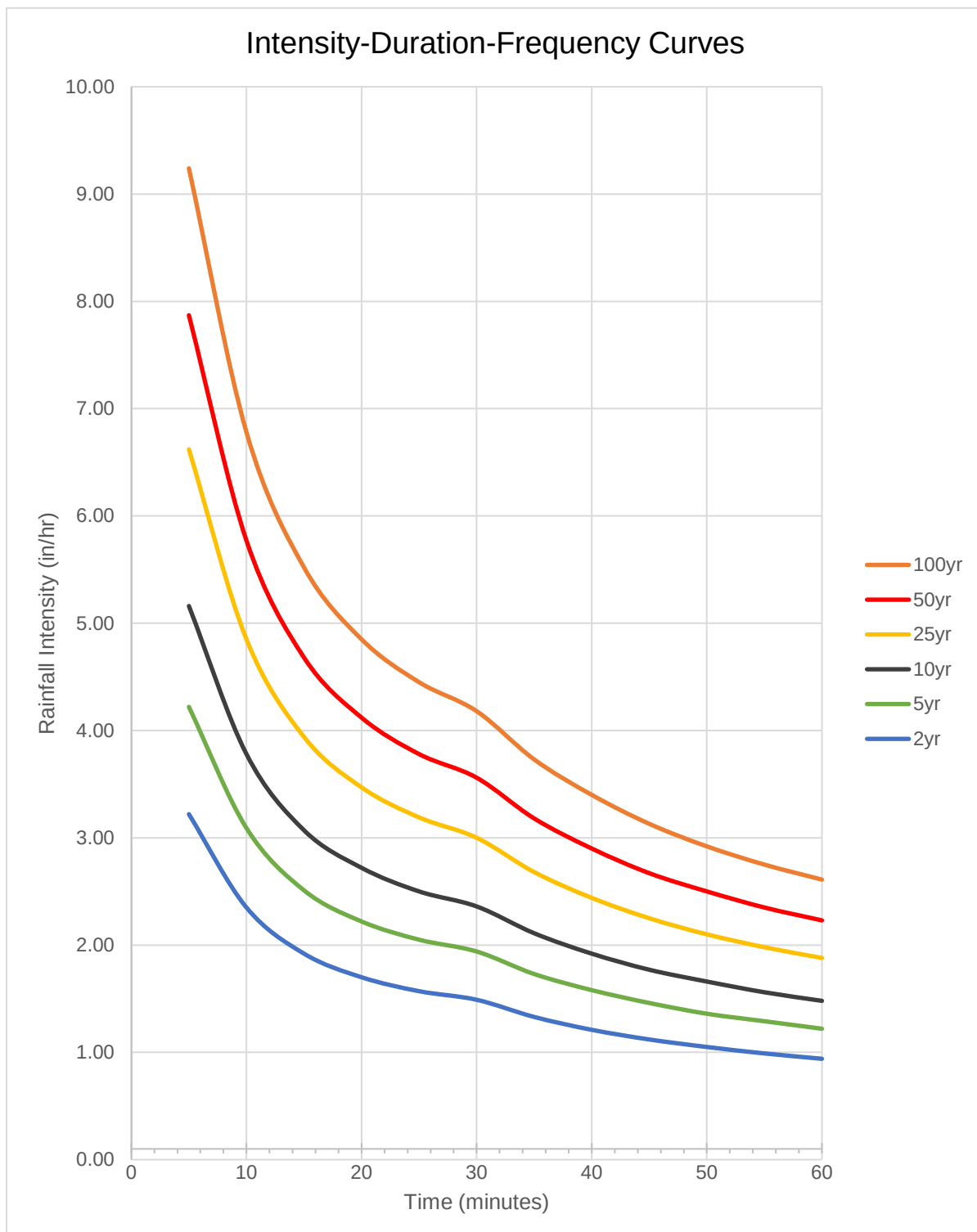


Figure 5-1. Rainfall Intensity-Duration-Frequency Curves for Use with the Rational Method (for Watersheds of 90 Acres or Less)

Chapter 6.0 Runoff

6.1 Introduction

Proper calculation of runoff is critical to planning and sizing of storm drainage facilities. Overestimates of runoff can result in higher cost facilities, while calculations that underestimate runoff can result in loss of life or damage to infrastructure, property, and natural resources.

This chapter identifies methods for determining the storm runoff design peak flow rates and volumes for preparation of storm drainage studies, plans, and facility designs for sites located in the City of Pueblo (City). Background information, equations, examples, and spreadsheets (e.g., *Pueblo-Rational* and CUHP) for these methods should be obtained from the *Runoff* chapter of the MHFD Manual, MHFD's website, and the City's Stormwater Utility website. The Stormwater Management Model (SWMM) for routing runoff also may be downloaded from the MHFD's website or from the Environmental Protection Agency (EPA) SWMM website.

6.2 Runoff Calculation Methods

Several methods for calculating runoff are acceptable for use in the City. These are:

- Rational Method
- Colorado Urban Hydrograph Procedure (CUHP)
- CUHP used in combination with the Storm Water Management Model (SWMM)

Descriptions of these runoff calculation methods are provided in Table 6-1. Criteria for determining which of these methods to use are also summarized in Table 6-1.

Criteria specified in this Manual must be followed for runoff calculations and storm drainage facility designs in the City unless otherwise stated in this manual. In some cases, the City may have detailed hydrologic studies or master drainage plans that may also be used.

Table 6-1. Runoff Calculation Methods Acceptable for Use in the City of Pueblo

Runoff Calculation Method	Application Criteria	Requirements for Use in City of Pueblo
Rational Method	Simple catchments less than 90 acres in size. Do not use when routing of hydrographs is required.	Use the City's <i>Pueblo-Rational</i> workbook to determine first design point time of concentration (T_c) for urban catchments.
CUHP	Appropriate for use in basins greater than 20 acres in size; required for areas greater than 90 acres in size. Use in combination with SWMM when routing of hydrographs is required. Can be used for smaller catchments 5-20 acres in size with smaller unit hydrograph time step.	Use design storm data from Table 5-1 in <i>Rainfall</i> chapter for CUHP input.
SWMM	Routes and combines hydrographs for sub-catchments developed using CUHP. Appropriate for use in more complex basins.	Use hydrographs developed from CUHP as inputs. Provide a copy of input/output listings for the model and an electronic copy of the modeling results in the Final Drainage Report submittal.
Published Hydrologic Information	May be used where the City has developed detailed hydrologic studies or master drainage plans appropriate for use in the study area.	Use values in published reports unless there is a compelling reason to modify published values.

6.2.1 Rational Method

As stated above, the Rational Method may be used for simple catchments smaller than 90 acres when routing of the hydrograph is not required. The MHFD Manual *Runoff* chapter provides details regarding assumptions and limitations under which the Rational Method may be applied and should be consulted prior to analysis. A customized version of the MHFD UD-Rational workbook with City rainfall data incorporated, the *Pueblo-Rational* spreadsheet, is available on the City's Stormwater Utility webpage. Use of the *Pueblo-Rational* spreadsheet is required by the City when the Rational Method is used to calculate runoff.

6.2.1.1 Rational Formula

The Rational Formula (Equation 6.1) relates peak runoff to the runoff coefficient (the ratio of runoff volume to rainfall volume), rainfall intensity, and the area contributing to runoff:

$$Q = CIA \quad \text{Equation 6.1}$$

Where:

Q = Peak rate of runoff (cfs)

C = Runoff coefficient

I = Average rainfall intensity (in/hr) for the duration equal to the time of concentration

A = Area contributing runoff (acres)

6.2.1.2 Time of Concentration

The time of concentration (TOC) is calculated as the travel time from the furthest point in the watershed to the design point. Both overland flow time and channelized flow time are included (Equation 6.2). The *Runoff* chapter of the MHFD Manual provides details for determining the TOC in urban and rural settings. A minimum TOC of 5 minutes should be used for urbanized, or developed, areas and 10 minutes for non-urban settings. The *Pueblo-Rational* spreadsheet is required for calculation of the TOC. At any design point, the pre-development TOC may not be shorter than the post-development TOC.

$$t_c = t_i + t_t \quad \text{Equation 6.2}$$

Where:

t_c = total time of concentration (minutes)

t_i = overland flow time (minutes)

t_t = channelized flow time (minutes)

6.2.1.3 Rainfall Intensity

Once the time of concentration has been calculated, the average rainfall intensity (in/hr) of a duration equal to the time of concentration at the specified storm event return frequency can be determined.

6.2.1.4 Runoff Coefficient

The runoff coefficient represents the expected ratio of runoff volume to rainfall volume for a storm event. The amount of runoff produced is controlled by several factors influencing infiltration in the watershed, including soil type and amount of impervious

surface cover. The *Runoff* chapter of the MHFD Manual includes guidance for estimating the percent of impervious surface of various land uses and equations for calculating the runoff coefficient for the different National Resource Conservation Service (NRCS) Soil Groups. The *Runoff* chapter of the MHFD manual provides tables with appropriate values for imperviousness and runoff coefficient parameters and may be referenced. A copy of these tables is included in Appendix A of this Manual.

6.3 Assumptions for Storm Flow Analysis

When determining design storm flows, the criteria and guidelines summarized in Table 6-2 (based on the MHFD Manual) must be followed to ensure that minimum design standards and uniform drainage approaches are maintained throughout the City.

Table 6-2. Assumptions for Onsite and Offsite Storm Flow Analysis

Analysis Type	Requirements for Use in City of Pueblo
Onsite Analysis	The design of onsite drainage infrastructure should account for the historical runoff from upstream sites, recognizing that runoff from future development must be detained at historic rates. Floodplain mapping will account for detention only from regional facilities. Calculate the time of concentration (TOC) using the <i>Pueblo-Rational</i> workbook for the first design point. At any design point, the pre-development TOC cannot be shorter than the post-development TOC.
Offsite Analysis for the Minor Storm Event	Onsite private detention facilities or regional detention facilities may be accounted for in the evaluation of the minor event runoff flow rate leaving the site for fully developed conditions. Inadvertent storage provided by road crossings, railroad embankments, and similar structures cannot be considered as detention.
Offsite Analysis for the Major Storm Event	Onsite private detention facilities or regional detention facilities may be accounted for in the evaluation of the major event runoff flow rate leaving the site for fully developed conditions. However, floodplain mapping will account for detention only from regional facilities. Inadvertent storage provided by road crossings, railroad embankments, and similar structures cannot be considered as detention.

Chapter 7.0 Streets

7.1 Introduction

The criteria presented in this chapter are to be used in the evaluation of the allowable drainage encroachment within public streets. The criteria, evaluation techniques, and design examples provided in the *Streets, Inlets, and Storm Drains* chapter of the MHFD Manual (Volume 1, Chapter 7) are incorporated into this Manual by reference and are not repeated herein. The City of Pueblo's Streets and Inlets Hydraulics Workbook, *Pueblo-Inlet*, is required to be used in the hydraulic evaluation of street flows and was used to prepare the figures presented in this chapter.

7.2 Function of Streets in the Drainage System

The primary function of urban streets is for safe and efficient traffic movement. Stormwater drainage and conveyance in streets must be consistent with this function and be designed to minimize the potential for street drainage to interfere with traffic, especially at intersections. When the drainage in the street exceeds allowable limits set forth in Section 7.3, a storm drain system (refer to Chapter 9) or an open channel (refer to Chapter 10) is required to convey the excess flows. Streets are also part of the major drainage system because they carry flows in excess of the minor storm, subject to the limitations described in Section 7.3.

7.3 Allowable Use of Streets for Storm Flows

Allowable use of streets for storm flows is summarized in Table 7-1 through Table 7-3. The minor storm referenced in these tables is the 5-year event and the major storm is the 100-year event.

Street classifications in the City include Local, Collector, and Arterial streets, as defined in the City's *Roadway Classification Design Standards and Policies* (City of Pueblo, 2004). Local roads provide access to and through residential areas or business campus areas with very low traffic generation. Collector roadways function to provide access to and through residential areas, provide runs between neighborhoods and form the outside edge of neighborhoods, and provide local commercial access of "main street" character, such as shopping and employment. Minor arterial streets provide for high-capacity roadways which connect neighborhoods, areas, and regional features with many points of access. Major arterial streets provide for continuous traffic movement connecting neighborhoods, areas, and regional features at higher speeds with limited access.

No curb overtopping during the minor storm is allowed for any street regardless of the street's classification. The maximum allowable street flow for the minor storm runoff is the product of the flow calculated at the "Maximum Theoretical Street Encroachment" and the required reduction factor, based on the hydraulic evaluation techniques in the *Streets, Inlets, and Storm Drains* chapter of the MHFD Manual.

Table 7-1. Allowable Use of Streets for Minor Storm Runoff (5-Year Event)

Street Classification	Maximum Street Encroachment
Local and Collector	No curb overtopping. Flow spread must leave at least one 10-ft lane free of water.
Arterial	No curb overtopping. Flow spread must leave at least one lane (10 feet) free of water in each direction and should not flood more than two lanes in each direction.

Table 7-2. Allowable Use of Streets for Major Storm Runoff (100-Year Event)

Street Classification	Maximum Depth and Inundated Area
Local and Collector	Residential dwellings, public, commercial, and industrial buildings must be 12 inches or more above the 100-year water surface elevation at the ground line or lowest water entry into the building. The depth of water over the gutter flow line must not exceed 12 inches. The extent of flooding shall not extend beyond the street ROW.
Arterial	Residential dwellings, public, commercial, and industrial buildings must be 12 inches or more above the 100-year water surface elevation at the ground line or lowest water entry into the building. To allow for emergency vehicles, the depth of water must not exceed the street crown. The extent of flooding shall not extend beyond the street ROW.

Table 7-3. Allowable Cross-street Flow When Cross Pans Are Allowed¹

Street Classification	Minor Storm Flow	Major Storm Flow
Local (only allowed at intersections controlled with stop signs)	6 inches of depth in cross pan if cross pan allowed.	12 inches of depth in cross pan or gutter flow line.

¹Cross pans are not allowed to convey flow across arterial streets. Cross pans are allowed only at intersections controlled by stop signs on local and collector streets.

7.4 Hydraulic Evaluation Techniques

Hydraulic calculations must be completed to determine the capacity of street gutters and the resulting encroachment onto the street section. As noted previously, the hydraulic calculations to be used are provided in the *Streets, Inlets, and Storm Drains* chapter of the MHFD Manual. These calculations use the hydrology developed in the

Rainfall and *Runoff* chapters (Chapters 5 and 6 of this Criteria Manual, respectively) and are subsequently to be used in calculations for inlets and storm drain sizing. The *Pueblo-Inlet* spreadsheet should be retrieved from the City's website and used in the hydraulic analysis. Table 7-4 lists acceptable roughness coefficients to be used for asphalt and concrete streets in the City.

Table 7-4. Manning's Roughness Coefficients for use in Hydraulic Calculations

Street and Gutter Material	Manning's <i>n</i> to be Used in Hydraulic Calculations
Asphalt street with concrete gutter	0.016
Concrete street and gutter	0.013

7.4.1 Allowable Gutter Flow Depths and Spreads

Table 7-5 summarizes the allowable gutter flow depth and flow spread into the roadway for the minor storm event for various City roadway classifications. Table 7-6 provides the same information for the major storm.

Table 7-5. Minor Storm (5-Year Event) - Permitted Flow Spread and Depths

Street Type	Flowline to Flowline Street Width (ft)	Minor Event Criteria	Maximum Allowable Spread (ft)
Local	30	No curb overtopping/ one 10-foot lane free	10
	32		11
	36		13
Collector	36	No curb overtopping/ one 10-foot lane free	13
	44		17
	60		25
Arterial	67	No curb overtopping/ one 10-foot lane free each direction	23.5
	29.5 ¹		19.5
	30 ¹		20

¹Median present, street width based on ½ street

Table 7-6. Major Storm (100-Year Event) - Permitted Flow Spread and Depths

Street Type	Flowline to Flowline Street Width(ft)	Major Event Criteria	Maximum Allowable Spread (ft)
Local	30	Depth not to exceed 1 foot maximum at gutter flow line	15
	32		16
	36		18
Collector	36	Depth not to exceed 1 foot maximum at gutter flow line	18
	44		22
	60		30
Arterial	67	Depth not to exceed 1 foot maximum at gutter flow line/ not to exceed crown/ (whichever is more restrictive)	33.5
	29.5 ¹		29.5
	30 ¹		30

¹Median present, street width based on ½ street

Note: See *Pueblo Roadway Classification Design Standards and Policies* for typical street cross sections.

7.4.2 Allowable Street Capacity Curves

Figure 7-1 thru Figure 7-6 provide the allowable street capacity for the minor and major storm events based on the allowable spread and depths summarized in Tables 7-1, 7-2, 7-5 and 7-6. The *Pueblo-Inlet* workbook was used to generate the plots in Figure 7-1 through Figure 7-6 and complete a hydraulic evaluation of street capacity by calculating street gutter flow capacity based on allowable spread and gutter depth for the minor and major design storms.

The following assumptions were used to develop these curves:

1. The curves are provided strictly for guidance only; individual hydraulic calculations should be performed using the latest version of *Pueblo-Inlet* based on site-specific information. Other street cross slopes, alternate gutter dimensions, assumptions about capacity behind the curb, among other factors, will yield different results.
2. The reduction factor has been applied based on the *Streets, Inlets, and Storm Drains* chapter of the MHFD Manual (see Figure 7-7). The *Pueblo-Inlet* workbook automatically incorporates the reduction factor.
3. The allowable spread for the minor storm is provided in Table 7-5 for all street types.

4. The maximum allowable flow depth at the gutter flowline is 12 inches for the major event for local and collector streets.
5. The allowable spread for the major storm is to the crown for arterial streets (local and collector streets do not have a spread criterion).
6. Gutter width is 2 feet, based on a standard gutter section.
7. Manning's n is 0.016.
8. Cross-slope is 2%.

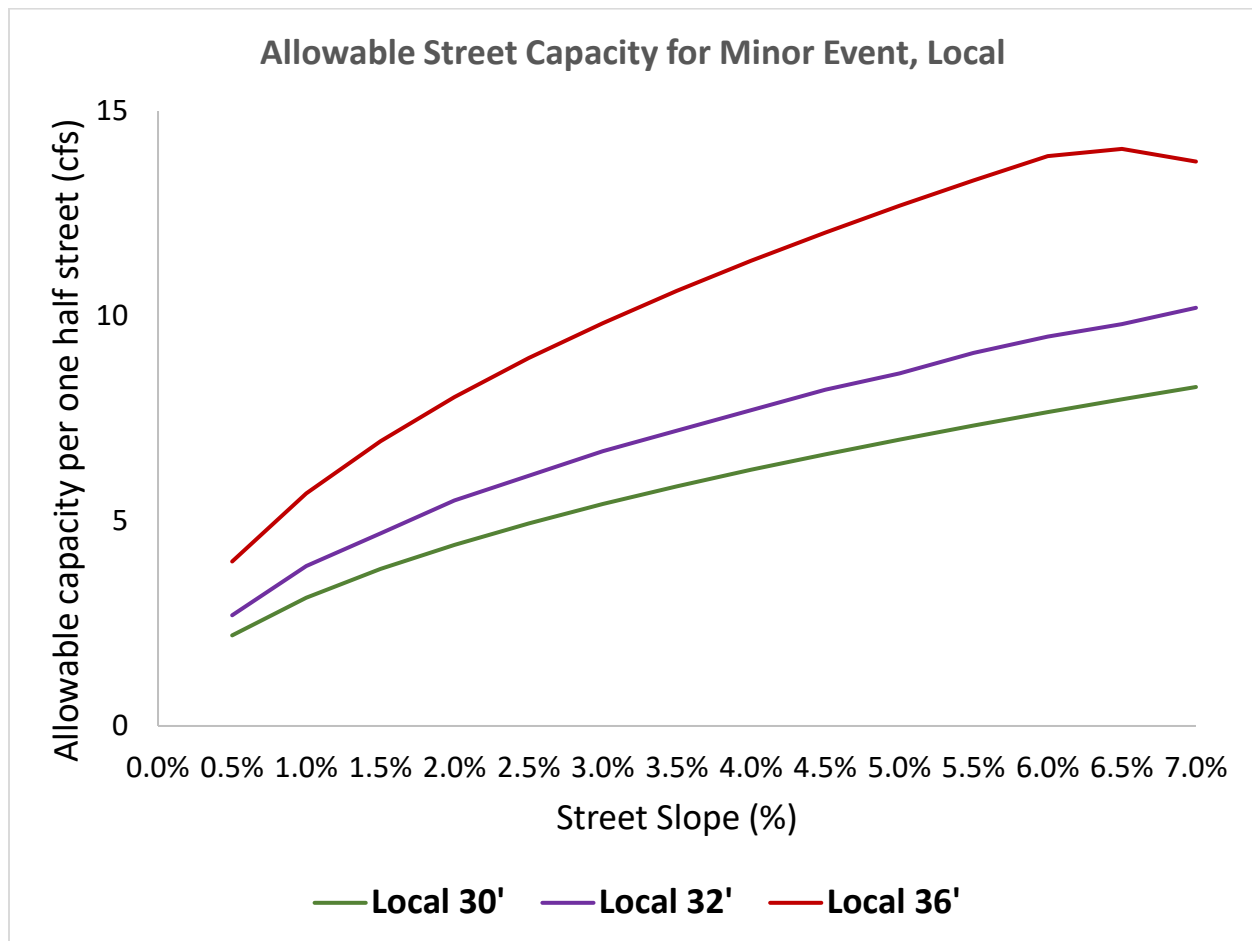


Figure 7-1. Allowable Street Capacity for Minor Event, Local Streets

(Note: See Section 7.4.2 for assumptions used to generate curves)

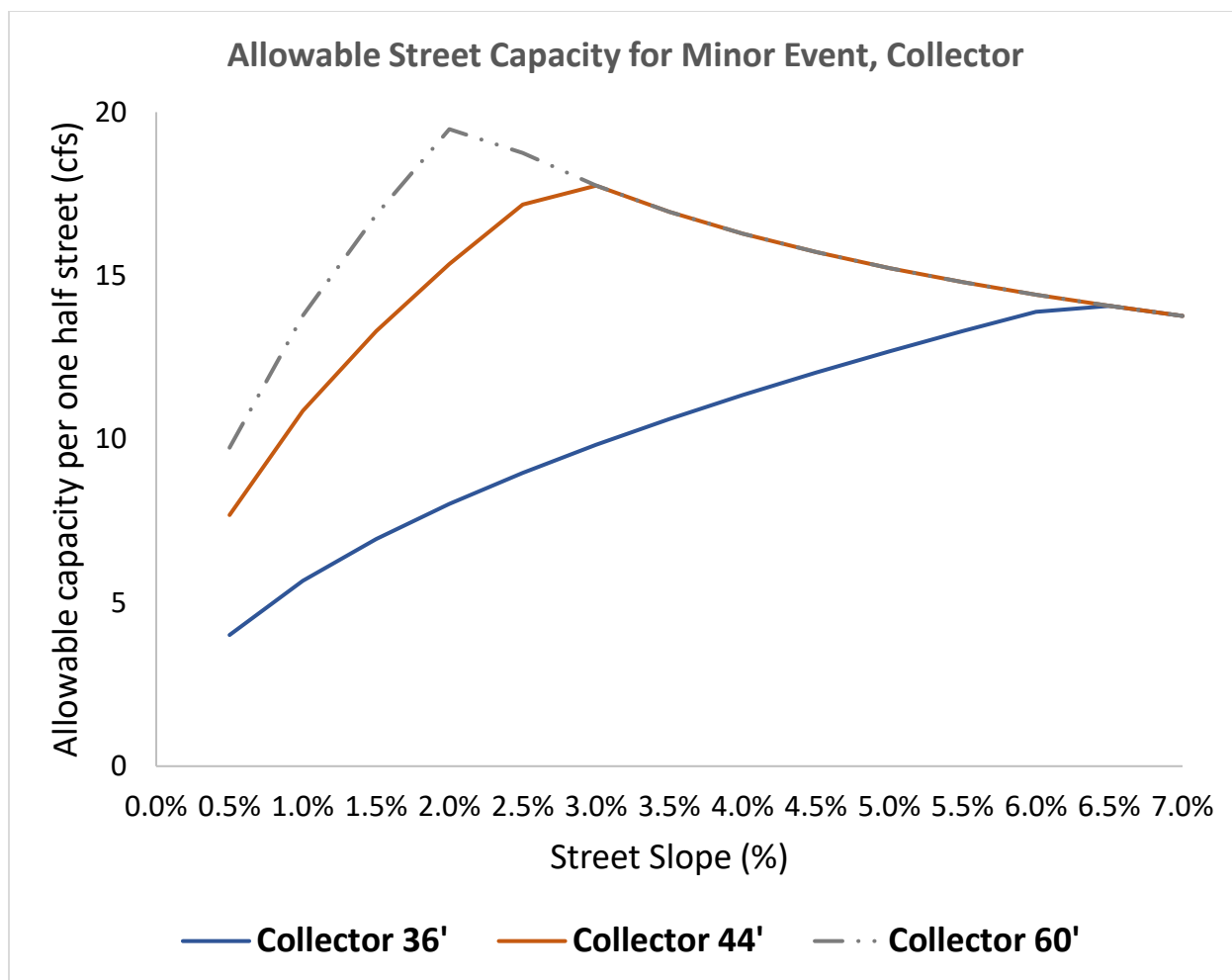
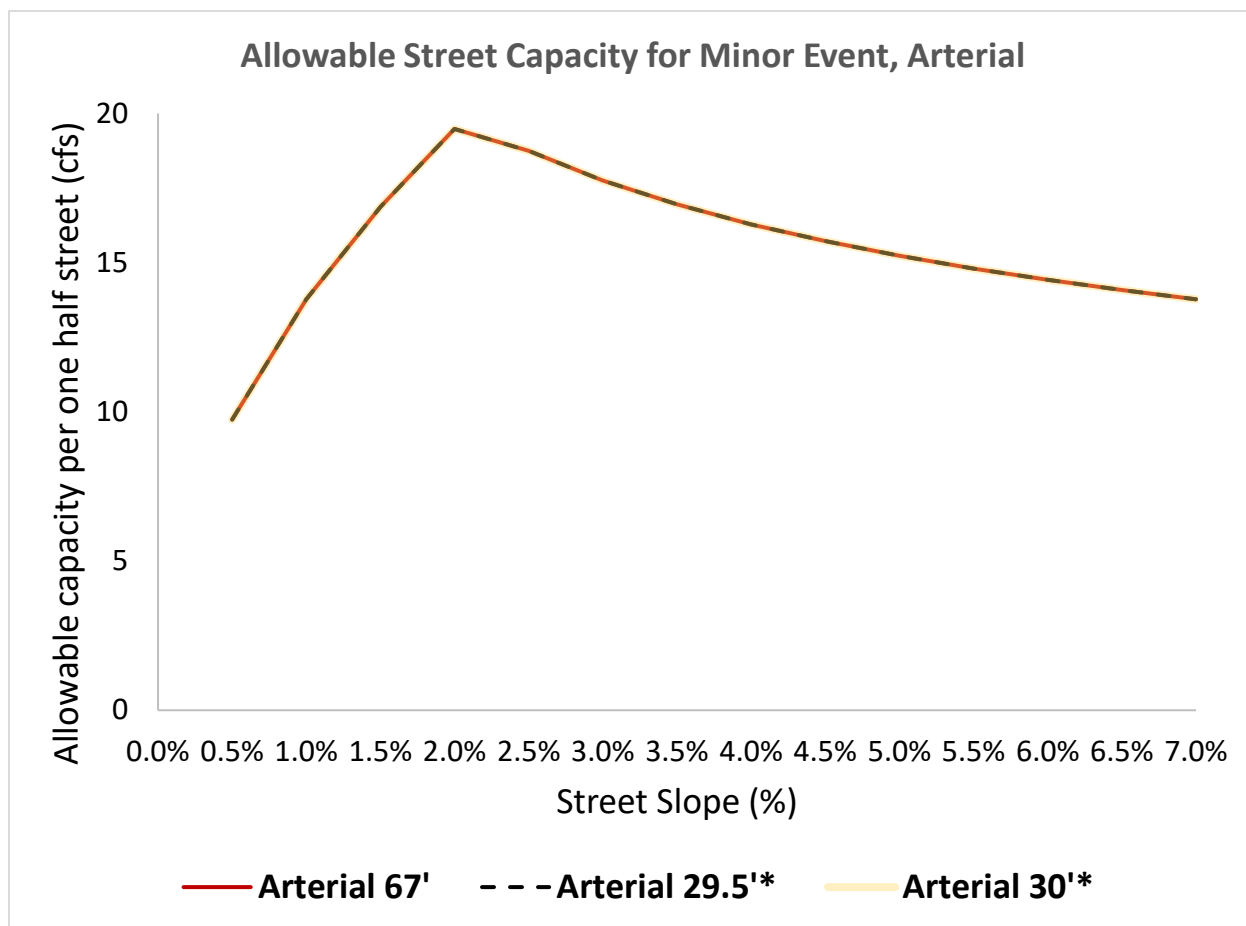


Figure 7-2. Allowable Street Capacity for Minor Event, Collector Streets

(Note: See Section 7.4.2 for assumptions used to generate curves)



*Half of arterial street with median present.

Figure 7-3. Allowable Street Capacity for Minor Event, Arterial Streets

(Note: See Section 7.4.2 for assumptions used to generate curves)

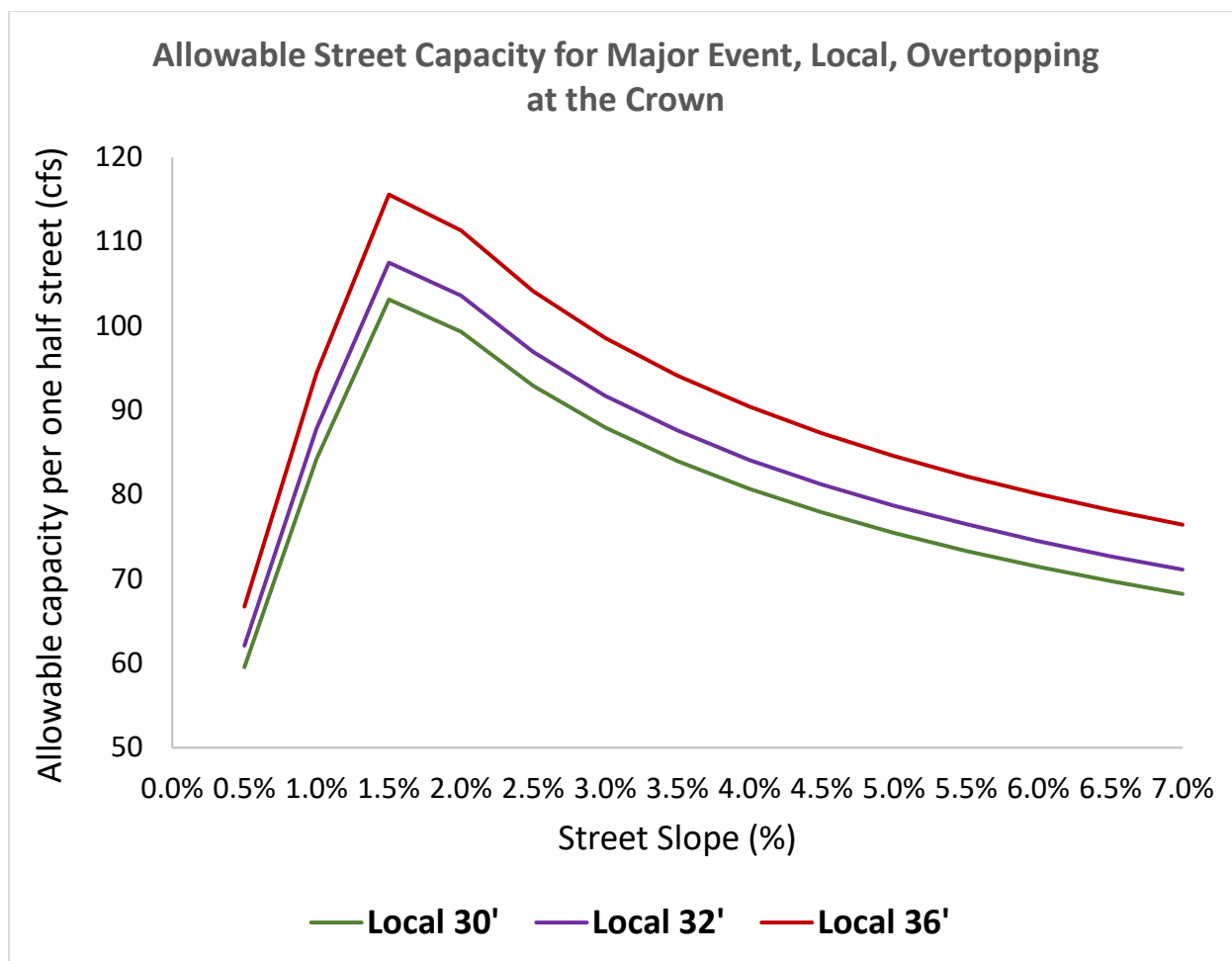


Figure 7-4. Allowable Street Capacity for Major Event, Local Streets

(Note: See Section 7.4.2 for assumptions used to generate curves)

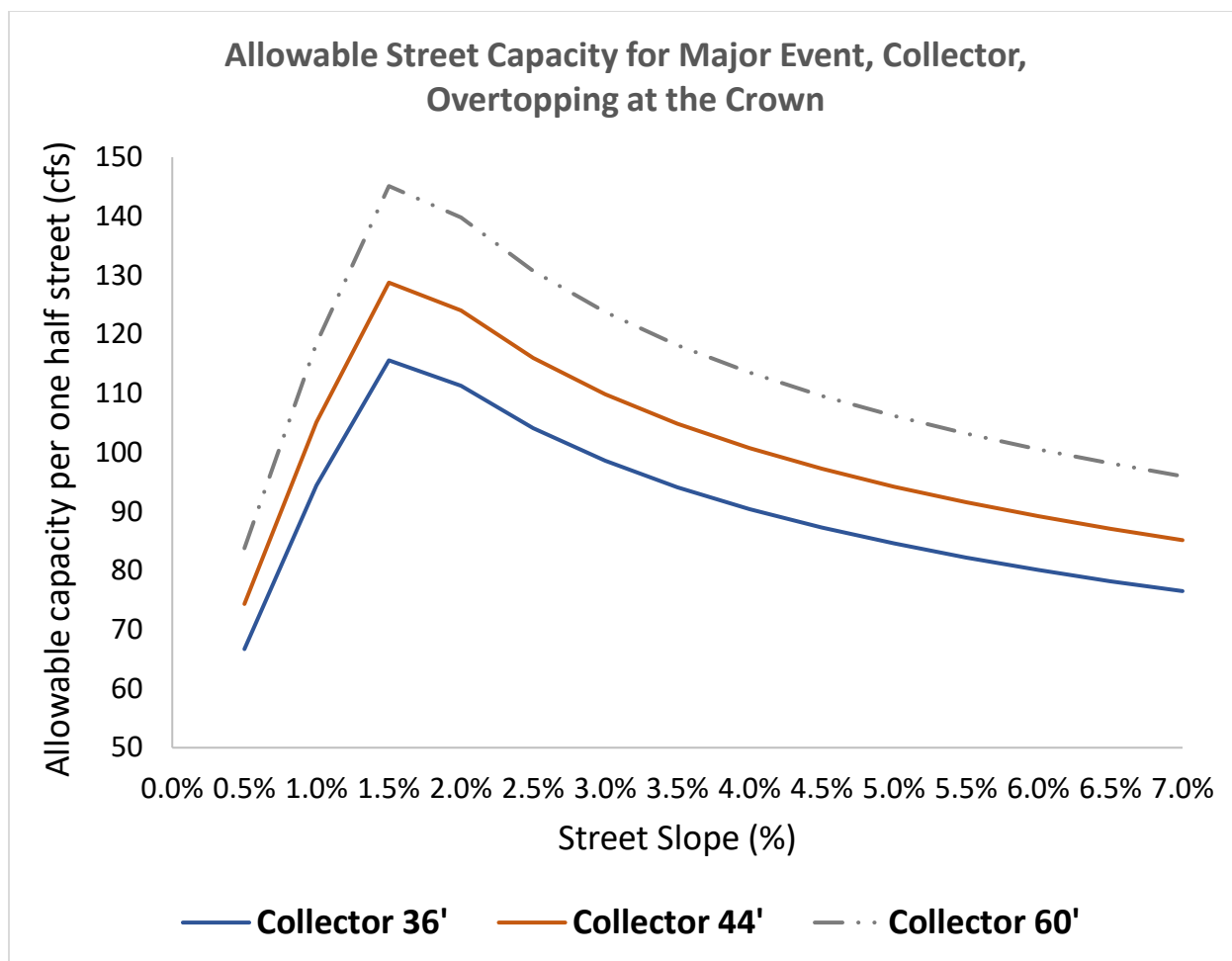
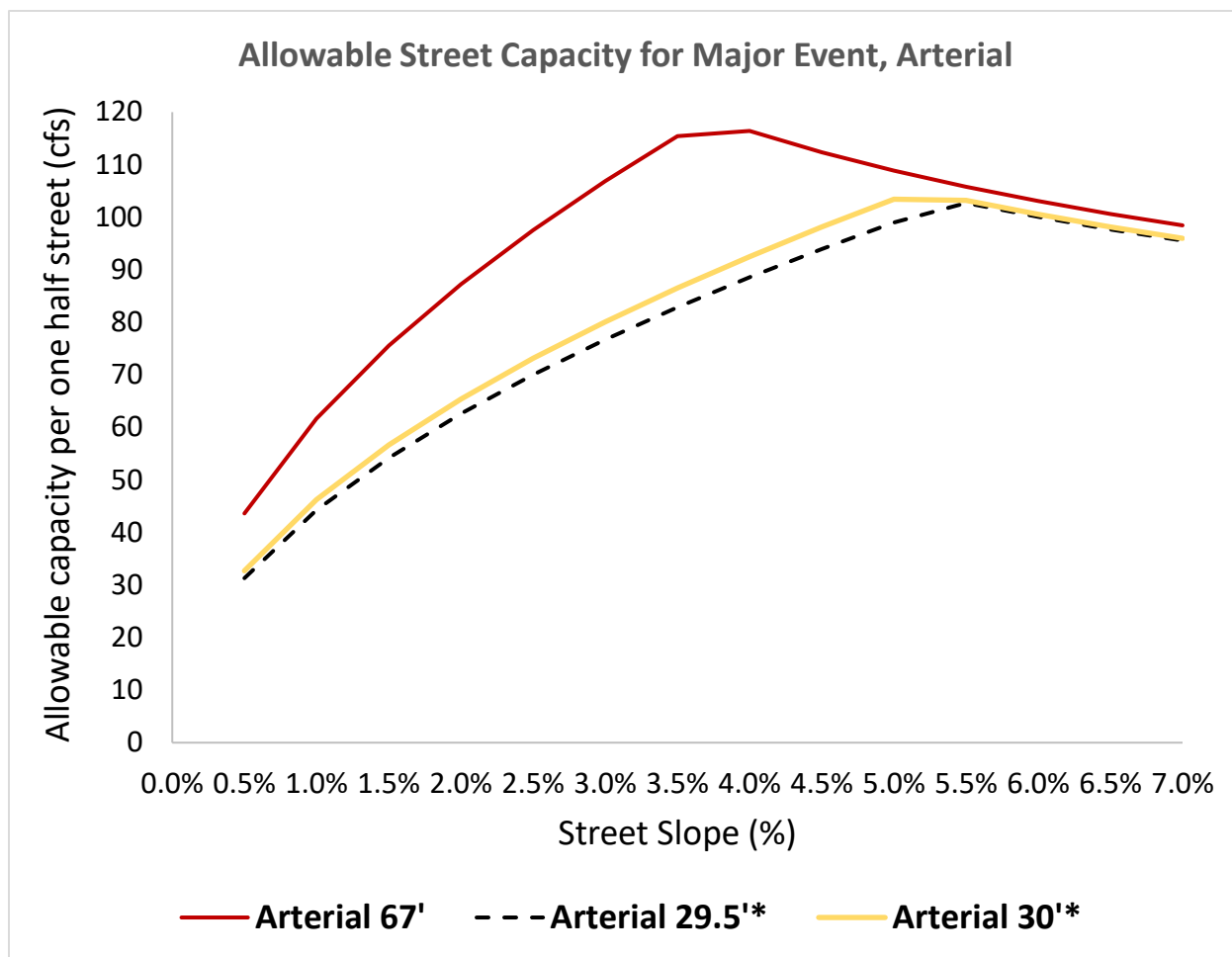


Figure 7-5. Allowable Street Capacity for Major Event, Collector Streets

(Note: See Section 7.4.2 for assumptions used to generate curves)



*Half of arterial street with median present.

Figure 7-6. Allowable Street Capacity for Major Event, Arterial Streets

(Note: See Section 7.4.2 for assumptions used to generate curves)

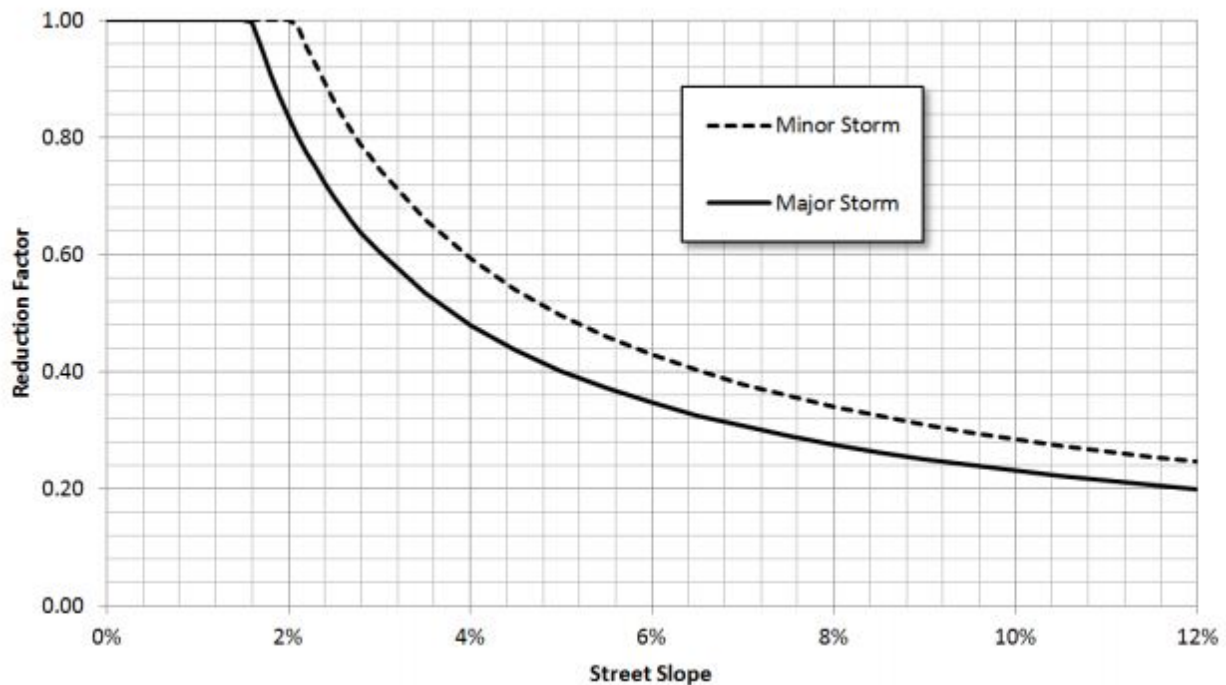


Figure 7-7. Reduction Factors for Gutter Flow

(Source: Guo 2000, per MHFD Manual)

Note: Gutters on steep slopes create elevated flow velocities that can impose a substantial force on pedestrians or vehicles. A reduction factor is applied only to a gutter depth of 6 inches or greater for the maximum gutter capacity based on the allowable flow depth in the gutter, per MHFD-Inlet workbook.

7.5 Design Considerations

All gutter and street drainage design must address the following representative considerations:

1. The primary function of urban streets is for public safety, including for pedestrians and safe traffic movement. Inlets should be placed upstream of intersections wherever practicable to intercept flow before it reaches the intersection. If an inlet is necessary at an intersection because of limited street capacity, it should be placed outside the curb radius whenever possible.
2. The maximum allowable street capacity for the minor event is provided in Table 7-5.
3. Allowable street capacity for major and minor storms is subject to safety considerations using the reduction factor taken from Figure 7-4 in the *Streets, Inlets, and Storm Drains* chapter of the MHFD Manual (Figure 7-7 in this Manual). The *Pueblo-Inlet* workbook incorporates the reduction factor.

4. Nuisance flows must be carried by gutters or pans to an inlet. Nuisance flows are not allowed to impede pedestrian traffic in areas with high pedestrian use or cross a driving lane outside of a gutter or pan.
5. Cross pans are not allowed to cross arterial streets.
6. Cross pans are allowed only at intersections controlled by stop signs on collector and local streets.
7. Manholes in the cross pans are discouraged but will be considered on a case-by-case basis.
8. Bulbouts (curb extensions) tend to reduce street capacity. Care needs to be taken that bulbout effects to surface flows will not violate any depth or spread criteria found in this chapter.
9. In areas of minimal or no setback from curb line, care needs to be taken to protect buildings from street flooding. In these cases, the designer must analyze potential flood depths in the minor and major storm events and take appropriate measures such as relocation of the building, revision of the design, and/or floodproofing to provide flood protection to prevent damages in the minor and major storm events.
10. Pavement overlays should be compatible with street drainage criteria.

Chapter 8.0 Inlets

8.1 Introduction

This chapter presents the criteria and methodology for design and evaluation of storm drain inlets located in the City of Pueblo (City). The criteria to be used in the design of storm drain inlets must be in accordance with the *Streets, Inlets and Storm Drains* chapter of the MHFD Manual (Volume 1, Chapter 7), unless modified herein. The review of all planning submittals will be based on the criteria presented in this chapter.

Important basic information on the function and types of inlets includes the following:

- **Function of Inlets:** The primary purpose of storm drain inlets is to intercept excess surface runoff and convey it into a storm drainage system, thereby reducing or eliminating surface flooding. Roadway geometry often dictates the location of street inlets located along the curb and gutter. In general, inlets are placed at all low points (sumps), along continuous grade curb and gutter, median breaks, and prior to intersections. The spacing of inlets along a continuous grade segment of roadway is governed by the allowable spread of flow and flow depth. See further details of allowable spread of flow in Chapter 7, *Streets*.
- **Types of Inlets:** There are three major types of inlets approved for use within the City's right-of-way: 1) curb opening (see Photograph 8-2), 2) grate, and 3) combination (an inlet with both a grate and a curb opening). Inlets are further classified as being on a "continuous grade" or in a "sump." The term "continuous grade" refers to an inlet placed in a curb and gutter such that the grade of the street has a continuous slope past the inlet and, therefore, water ponding does not occur at the inlet. A sump condition exists where a low point results in ponded water and an inlet is located at the low point.



Photograph 8-2. Curb opening inlet in City of Pueblo.

8.2 Standard Inlets

The standard inlets permitted for use in the City are provided in Table 8-1.

Table 8-1. Inlet Types

Standard Inlet Types in City of Pueblo	
Inlet Type	Use Permitted
CDOT Type R Curb Opening	All street types
Slotted Inlet Parallel to Flow	Streets or open areas
CDOT Type D	Streets or open areas
CDOT Type C Grate	All streets with a roadside or median ditch
CDOT/Denver 13 Valley Grate	Alleys or drives with a valley gutter (private areas only)
Denver No. 16 Combination	All street types

The City may consider other inlet types for retrofit projects if the applicant demonstrates that the City's standard inlet types are unsuitable. The use of inlet types that are not listed in Table 8-1 will require a variance.

8.3 Inlet Design

Proper inlet design includes both the proper inlet hydraulic capacity and appropriate inlet placement. The sizes and types of inlets shall be designed based on the required hydraulic capacity of the inlet. The criteria and procedures in the *Streets, Inlets, and Storm Drains* chapter of the MHFD Manual must be followed for inlet design in the City, except as modified and supplemented herein. Additional information on hydraulic design and placement of inlets is provided below.

8.3.1 Hydraulic Design

The MHFD's Street Capacity and Inlet sizing software has been customized for the City and can be downloaded from the City's Stormwater Utility webpage. The software is required for use with on-grade and sump inlet designs.

8.3.2 Inlet Location

Inlets are required in the following locations:

- Sumps.
- Areas where street capacity would be exceeded without them (e.g., where the allowable design flow spread would be exceeded).
- Upstream of pedestrian curb ramps with less than 1% slope on the curb return

where a storm drain is available.

8.4 Design Considerations

1. In general, inlets should be located upstream of pedestrian curb ramps and spaced in a manner to prevent clogging and should also be placed at least 5 feet upstream of ADA ramps that are not at an intersection. This is particularly critical for flat grades and sump conditions; approximately 20-foot spacing is recommended under these conditions.
2. At locations that are prone to ponding, such as an underpass with a sag-vertical curve, good engineering practice involves placing flanking inlets on each side of the sag location inlet to relieve some or most of the flow burden on the inlet located in sag. Flanking inlets are required in these sump conditions without overflow and in sump conditions requiring more than a triple inlet.
3. A minimum 2-foot apron must be used with valley inlets when no curb and gutter is present.
4. Inlets must be sized to accept the specified pipe sizes without knocking out any of the inlet corners.
5. All pipes entering or exiting inlets shall be cut flush with the inlet wall.
6. Other common-sense considerations regarding placement should also be taken into consideration, such as placing inlets upstream rather than downstream of driveways.
7. An emergency overflow route must be provided in sump areas for new development. For other projects, the emergency overflow paths and depths must be addressed to prevent adverse impacts to properties and structures.
8. Grate inlets are not allowed at bus stops.
9. Unless cross pans have been approved at an intersection, inlets shall also be placed at the upstream side of each intersection in such a manner that the downstream end of the inlet is located not less than ten (10) feet upstream from the point of tangency of the curb radius.
10. The length of an inlet shall not exceed 20 feet, unless approved by the Stormwater Director, and no more than one inlet shall be allowed to be placed adjacent to any residential lot, unless approved by the City.
11. Inlets shall be spaced so as not to interfere with driveway access that meets City roadway standards.
12. The minimum inlet pipe size shall be 15" diameter.

13. Inlets should be placed upstream of intersections to intercept flow before it reaches the intersection. Avoid placement of inlets in the curb return radii to minimize inlet damage from large vehicles.
14. Any redevelopment or upgrades must be brought up to current standards. If existing conditions, such as utility conflicts, do not allow this, then a variance may be applied for.

Chapter 9.0 Storm Drains

9.1 Introduction

Within an urban drainage system, storm drains provide subsurface conveyance of flows to control the depth and spread of runoff in streets and other surface drainage systems. The design of storm drains within the City of Pueblo (City) must be in accordance with the Storm Drain Systems section of the *Streets, Inlets, and Storm Drains* chapter of the MHFD Manual (Volume 1, Chapter 7), except as modified herein.



Photograph 9-3. Manhole covers for the storm drain system in the City of Pueblo alert the public to “No Dumping” because of the system’s discharge into receiving streams.

9.2 Design Storms for Sizing Storm Drain Systems

Two design storms must be considered for sizing storm drain systems: 1) the minor (5-year) storm, and 2) the major (100-year) storm. In each case, storm drains must be sized to carry the portion of runoff that cannot be conveyed on the surface, as dictated by the available capacity in streets and swales during the minor and major storm events. When connecting to an existing storm drain system, the applicant must demonstrate that the proposed system will not exacerbate any existing stormwater problems identified by the City. Minimizing peak discharge rates may be required at the discretion of the Stormwater Director.

9.2.1 Minor Event Design Storm

Storm drains must be sized, at a minimum, to convey any minor storm runoff that exceeds the minor event capacity of the street or roadside swales as discussed in Chapter 7, *Streets*. Inlets are located at these critical points to intercept excess flow and route it to the storm drain. To avoid surcharging, storm drains must be designed to convey the minor storm flood peaks while flowing at a maximum of 80% of the full pipe capacity. Section 9.3 provides additional information on hydraulic design methods for the minor storm.

9.2.2 Major Event Design Storm

There are conditions when the storm drain system will be sized to convey flows greater than the minor storm runoff, including locations where:

- The street capacity for the major storm is exceeded, especially where the grade slopes down behind the curb and the major storm capacity is limited to the height of the curb.
- Regional storm drains are designed for the major storm.
- The storm drains must convey undetained flows to a regional detention basin.

If a storm drain is to be designed to carry major storm flows, the inlets to the storm drain must be designed accordingly. In pipes designed to convey up to the major storm, the hydraulic grade line (HGL) is allowed to rise above the top of the storm drain pipe or culvert but must be kept at least 1.0 foot below manhole lids, inlet grates and inlet curb openings. Section 9.3 provides additional information on hydraulic design methods for the major storm.

9.3 Hydraulic Design

Storm drains must be designed to convey the minor storm flood peaks while flowing, at most, at 80% of the full pipe capacity. To ensure that this objective is achieved, the hydraulic and energy grade lines must be calculated by accounting for pipe losses. Total hydraulic losses must be calculated accounting for friction, expansion, contraction, bend, and junction losses following the methods in the Storm Drain Systems section of the *Streets, Inlets, and Storm Drains* chapter of the MHFD Manual.

Additionally, for convenience, a chart identifying the hydraulic properties of circular pipe is provided in Figure 9-1 (at end of chapter). This chart assumes that the friction coefficient and Manning's roughness coefficient ("n" value) do not vary with depth, which is a common design assumption for storm drains. The EPA Stormwater Management Model (SWMM) may also be used to design storm drains.

The maximum velocity in all storm drains is 15 feet/second. Storm drains must be designed with a minimum slope of 0.5% that generates a minimum velocity of 3 feet/second at half-full flow conditions.

The final Energy Grade Line (EGL) must be at or below the proposed ground surface for the design event. Flow must not exceed the 80% full capacity of the pipe for the minor storm. In cases where the conduit is designed to convey up to the full 100-year flow, the allowable Hydraulic Grade Line (HGL) must be 1.0 foot below inlet elevations, or 1.0 foot below ground where no inlets are present.

9.4 Construction Materials

Acceptable storm drain construction materials to be used for all public infrastructure include ASTM C76 Class III reinforced concrete pipe (RCP). High Performance (HP) Storm Polypropylene Pipe manufactured by Advanced Drainage System, Inc. (or approved equal), has also been approved for use in the City's right-of-way and under pavement for City-approved projects. Approved HP Storm Polypropylene Pipe diameters range in size from 15" to 60". Other materials may be considered on a case-by-case basis for private development projects that will not be publicly maintained. Storm drains which are subject to vehicular traffic shall be designed to support all dead loads plus live loads as specified in the City's *Standard Construction Specifications and Standard Details*.

9.5 Pipe Size

The minimum allowable pipe size for storm drains is dictated by ease of maintenance rather than hydraulics. The length of the pipe also affects the ability to maintain a storm drain. Table 9-1 presents the minimum pipe sizes for public storm drains.

Table 9-1. Minimum Size Criteria for Public Storm Drains

Type	Minimum Equivalent Pipe Diameter
Main Trunk	18 inches
Lateral from Inlet	15 inches

Outfall structures are considered main trunks; therefore, the minimum outfall diameter is 18 inches or equivalent. Sidewalk chases are separate outfalls and are not subject to these requirements but must demonstrate sufficient hydraulic capacity. Variances may be considered and must be submitted to the Stormwater Director.

9.6 Vertical and Horizontal Alignments

Table 9-2 provides the vertical clearance requirements for storm drains.

Table 9-2. Vertical Clearance Requirements for Storm Drains

Vertical Alignment of Storm Drain Relative to:	Minimum Vertical Clearance (above or below) ¹	Comment
Cover	Minimum cover depends upon the pipe size, type and class, and the soil bedding condition.	A minimum cover of 3 feet must be maintained, except at the pipe terminus, unless otherwise approved by the City. The pipe must not extend into the street subgrade. The drain grade must be such that a minimum cover is maintained to withstand American Association of State Highway and Transportation Officials (AASHTO) HS-20 loading on the pipe (or as designated by the City of Pueblo).
Water Main	18 inches	Approval from the City will be required for lesser clearances.
Sanitary Sewer Main	18 inches	Additionally, when a sanitary sewer main lies above a storm drain, or within 18 inches below, the sanitary sewer must have an impervious encasement or be constructed of approved sewer pipe with the nearest joint at least 10 feet from the centerline of the crossing.

¹Vertical clearance must extend from outside of pipe to outside of pipe.

Table 9-3 provides vertical drop requirements for storm drains.

Table 9-3. Vertical Drop Requirements for Storm Drains

Vertical Alignment of Storm Drain Relative to:	Minimum Vertical Drop (above or below)	Comment
Manholes	0.1 – 0.3 ft depending on the horizontal deflection angle at manhole	The invert of a pipe leaving a manhole should be at least 0.1 feet lower than the incoming pipe for straight runs, 0.2 feet for 0-to-45-degree angles, and 0.3 feet for 45-to-90-degree angles to ensure positive low flows through the manhole.
Drop Shaft Structures	Varies	For vertical drops greater than 8 feet, special designs are required that address potential cavitation and energy dissipation. These situations will require special review. See <i>Design and Construction of Urban Stormwater Management Systems</i> (WEF and ASCE 1992) for guidelines for drop shaft structures.

Horizontal alignment requirements for storm drains are summarized in Table 9-4. Storm drains parallel to the street must not be placed under the tree lawn (i.e., parking strip) or the sidewalk.

Table 9-4. Horizontal Alignment Requirements for Storm Drains

Horizontal Alignment of Storm Drain Relative to:	Minimum Horizontal Clearance (above or below)	Comment
Water Main or Sanitary Sewer	10 feet	The minimum horizontal clearance between a storm sewer and either a water main or sanitary sewer is 10 feet from outside of pipe to outside of pipe, unless otherwise approved by the City of Pueblo.

In most cases, the storm drain alignment between drainage structures (inlets or manholes) must be straight, using manholes to accommodate changes in alignment. Storm drain horizontal alignment may be curvilinear when documentation from the pipe manufacturer allowing a curvilinear alignment is provided. The applicant must demonstrate the need for a curvilinear alignment. The radius limitations for pulled-joint pipe are dependent on the pipe length and diameter and amount of opening permitted in the joint. The minimum parameters for radius-type pipe must be in accordance with the manufacturer's specifications.

9.7 Manholes/Cleanouts

Manholes are required whenever there is a change in size, direction, elevation, grade, or where there is a junction of two or more drains. A manhole may be required at the beginning and the end of the curved section of storm drain. The maximum spacing between manholes is 500 feet for pipes with a vertical dimension of 42 inches and larger, and 400 feet for pipes with a diameter of less than 42 inches. The required manhole size shall be in accordance with values in Table 9-5:

Table 9-5. Required Manhole Diameters

Storm Drain Diameter (inches)	Manhole Diameter (feet)
15 to 18	4
>18 to <42	5
42 to 54	6
Larger than 54	Appropriate manhole size from CDOT Standard Plan No. M-604-20

Larger manhole diameters or a junction structure may be required when large diameter pipe alignments are not straight through manholes or when more than one storm drain line goes through the manhole. A special structure is required for 42-inch or larger pipe when the angle of deflection is more than 45 degrees.

9.8 Outlets

Proper design of storm drain outlets is necessary to minimize erosion at the outfall location and to protect public safety. Key guidance on these topics is presented in the following sections.

9.8.1 Conduit Outlet Protection

Adequate erosion protection must be provided at all storm drain outlets in accordance with Section 3 of the *Hydraulic Structures* chapter of the MHFD Manual, which provides criteria for riprap aprons, low tailwater stilling basins, concrete impact stilling basins, concrete baffle chutes, and grouted boulder outfalls.

9.8.2 Safety

Headwalls and wingwalls associated with storm drain outlets must be provided with guardrails or handrails in conformance with City building codes and roadway design safety requirements. Guardrails are required in all areas where the drop from the headwall or wingwall exceeds 30 inches. The height of the guardrail must be 42 inches for pedestrian walkways or open areas and 54 inches when bicycle or equestrian traffic will be near the storm drain outlet.

In addition, storm drain inlets in locations where unauthorized entry is likely such as near schools, parks and residential areas, shall be provided with grates, only on the inlet side, that meet specifications described in the *Culverts and Bridges* chapter of the MHFD Manual (Volume 2, Chapter 11).



Photograph 9-4. Riprap protection at storm drain outlet

9.9 Abandonment

Storm drains greater than 8 inches to be abandoned in place, including manholes, must be plugged with clean concrete and standard manufactured plugs or caps at both the upstream and downstream ends of the abandoned section. Flow fill in abandoned pipes may be required by the Stormwater Director if the road or other area prone to problems is susceptible to settlement.

9.10 Easements

Easements are required around all storm drains receiving public water and not in City right-of-way and must be executed with form DPW 110, which can be found on the City's Stormwater Utility webpage. Subdivision easements can be shown on the plat, in

which case a DPW 110 will not be needed. The City requires the following equation be used in the calculation of easement widths:

For a single line storm drain, the easement width shall be:

$$W = B_c + 2H + 3$$

Where W = Required easement width (feet)
 B_c = Outside span of pipe (feet)
 H = Depth from top of pipe to final surface elevation (feet)

W shall be rounded to the next 5-foot increment with a minimum width of 20 feet. The storm drain shall be placed at the center of the easement. Access to easements shall remain open with no fences, unless otherwise approved.

The easement width for multiple line storm drains shall be calculated as a special case and must be approved by the City.

9.11 Key Design Considerations

All of the design criteria in this chapter must be followed. Several key considerations that the designer must take care to address include:

1. Storm drains must convey the minor storm flood peaks while flowing, at most, 80% of full pipe capacity.
2. EGLS and HGLs
 - a. The EGL must be below the ground surface for the design event.
 - b. The HGL must not be higher than 1.0 foot below inlet elevations, or 1.0 foot below ground where no inlets are present when the conduit is designed to convey the major event.
 - c. Account for all losses in the EGL and HGL calculations including outlet, form, bend, manhole, and junction losses.
3. Provide adequate erosion protection at the outlet of all storm drains.
4. Provide cross section details for riprap protection.
5. Check for minimum pipe cover and clearance with utilities.
6. Check overflow under sump conditions.
7. When a storm drain flows into a detention or water quality facility, design the invert of the inflow pipe to be higher than the anticipated water quality level in the pond. Exceptions to this requirement must be approved by the Stormwater Director.

8. Construction of an outfall in a mapped floodplain requires a floodplain development permit.
9. Backflow prevention devices such as check valves for storm drain outlets should only be considered as a last option.

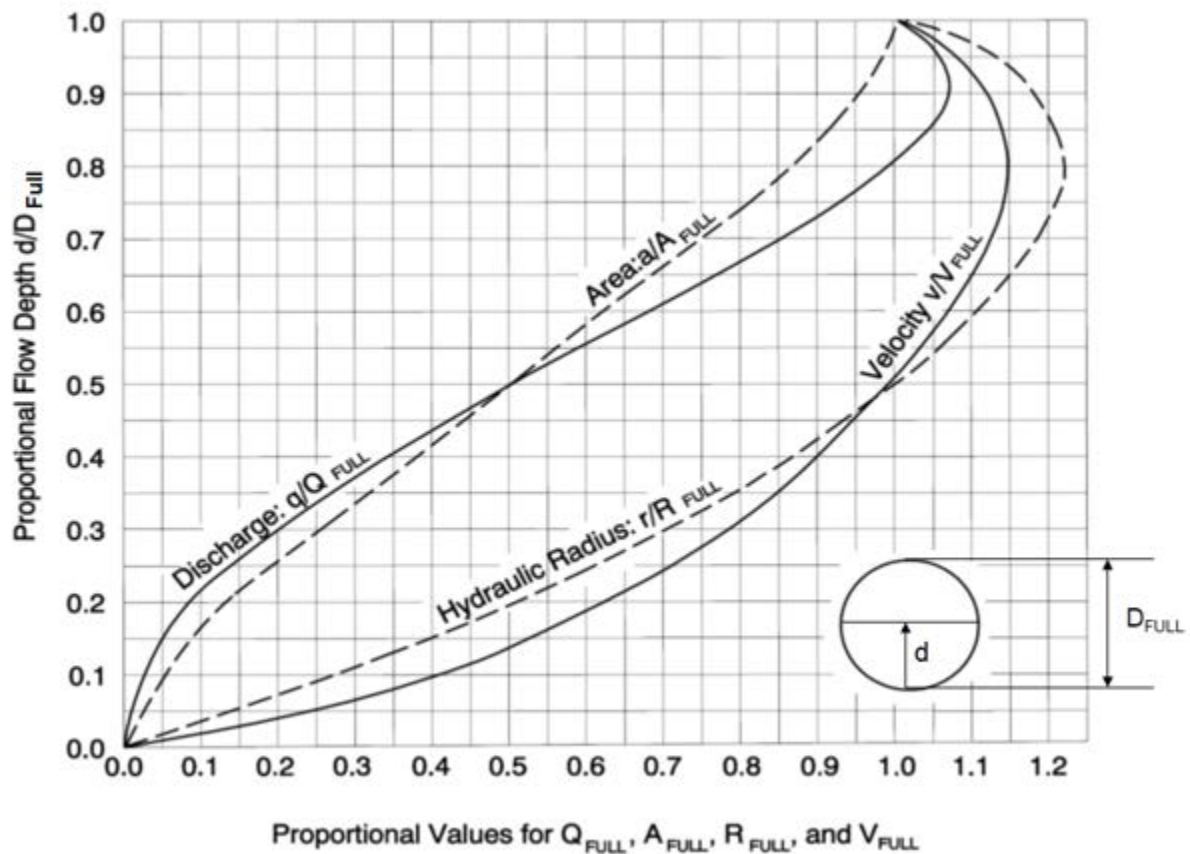


Figure 9-1. Hydraulic Properties of Circular Pipe

(Source: *Open Channel Hydraulics* (Chow 1959, reissued 1988); figure adapted from Oregon Department of Transportation Hydraulics Manual (ODOT 2014))

This page intentionally left blank

Chapter 10.0 Open Channels

10.1 Introduction

Numerous benefits exist with incorporating open channels into urban drainage systems wherever possible, whether they are small swales conveying intermittent runoff, or naturalized channels with perennial flow. In addition to flow conveyance, natural and naturalized constructed channels provide additional benefits not found in piped systems, such as flood attenuation, water quality enhancement, ease of maintenance, riparian and aquatic habitat, as well as community value through recreational opportunities and natural areas.

The City of Pueblo (City) encourages the use of open channels wherever practicable. This chapter provides the minimum technical criteria for the hydraulic evaluation and design of open channels located in the City. In many instances, special design or evaluation techniques will be required. Design criteria in the *Open Channels* chapter of the MHFD Manual are hereby incorporated by reference. Except as modified herein, all open channel designs must be in accordance with the MHFD Manual.

10.2 Major Drainageways

A major drainageway is defined as any drainage flow path with a tributary area of 130 acres or more. Major drainageways in the City include portions of Fountain Creek, Dry Creek, Salt Creek, and their tributaries. In addition, the Arkansas River runs through the heart of the City. A map of the major drainage basins in the City may be found on the City's website.

Major drainageways exist in the City with sandy beds and banks, such as Fountain Creek, as an example, that are especially vulnerable to channel instability because of urbanization and associated hydromodification and erosion. Excessive aggradation or degradation are likely to develop unless design and construction of major drainageway improvements are performed with an understanding of geomorphology and sediment transport.

A primary objective of managing flow in major drainageways in the City is to provide outfalls that have positive drainage through the City and ultimately to the Arkansas River. This is challenging in some locations due to factors that include barriers created by highways, railroads and ditches and the cost to address those obstacles. Nonetheless, for development in the City to occur in a manner that protects public health, safety, and welfare, outfalls for major drainageways are a necessity.

Urbanization and Hydromodification

The increase in impervious surface that accompanies urbanization typically leads to increases in flow peaks and volumes, increased duration of flow events, and decreases in sediment loads. Accordingly, channel erosion and impaired water quality often result when watersheds are urbanized.

10.2.1 Natural Channel Design and Preservation

The *Open Channels* chapter of the MHFD Manual emphasizes providing adequate space for the stream corridor and using naturalized channel design. The MHFD Manual provides guidance for preserving, protecting, and enhancing existing natural channels and for designing naturalized channels where new channels are to be constructed. Although much of the City is urban in character, many of the streams that flow through the community can be enhanced through the natural channel design principles described in the MHFD Manual. While the use of closed conduits may be necessary for crossing impediments to natural drainage such as roads, ditches, and railroads, in other areas natural channel design concepts should be evaluated and applied as appropriate. Application of the low-maintenance, high-functioning design concepts in the MHFD Manual will result in reduced lifecycle costs for drainageways in the City.

8 Principles for Stream Restoration or Naturalized Channel Construction

1. Understand existing stream and watershed conditions
2. Apply fluvial geomorphology principles to manage sediment balance
3. Establish effective cross-sectional shape
4. Maintain natural planform geometry
5. Develop grade control strategy to manage longitudinal slope
6. Address bank stability
7. Enhance streambank and floodplain vegetation
8. Evaluate stream hydraulics over a range of flows

Source: Mile High Flood District Manual, *Open Channels* Chapter

10.2.2 Development Near Existing Channels

Whenever a development alters or improves a major drainageway, the developer(s) are responsible for making revisions to the floodplain mapping at their own expense. A minimum freeboard of 1 foot above the 100-year Water Surface Elevation (WSEL) is to be maintained for the lowest floor (including basement) of all non-critical structures in the channel vicinity. In drainages where the 100-year design flow does not exceed 10 cfs, 6 inches of freeboard is allowed when the channel is not adjacent to insurable structures. In cases where modifications are planned for a drainageway that is mapped by FEMA as having a regulatory floodplain, the developer must schedule a meeting with the City to determine whether a Conditional Letter of Map Revision (CLOMR) will be necessary prior to channel improvements being made.

In addition to the regulatory floodplain requirements, the respective developer responsible for the channel modifications is also responsible for obtaining a 404 permit, as applicable. Filling within the floodplain is generally to be avoided.

10.3 Minor Drainageways

Minor drainageways convey flows from tributary areas less than 130 acres. The minor drainage network provides important functions of flow attenuation and infiltration and should be preserved to the extent practicable. Most channels will need to be improved due to changed upstream conditions. The design principles in the MHFD Manual apply to both classifications of streams. Additionally, the MHFD *Open Channels* chapter provides design information for grass swales based on several standard cross-sections. The City encourages the use of vegetated, open channel drainageways for minor drainage systems when feasible.

10.4 Hydraulic Analysis

A detailed hydraulic analysis of the design reach and any upstream or downstream area of influence must be conducted to inform the design following the guidance in the MHFD Manual. Evaluating channel and floodplain hydraulics is a key component of any stream project, providing valuable insight into flow properties such as water surface elevation, depth, velocity, shear stress, and Froude Number. Hydraulic design criteria are provided in the *Open Channels* Chapter of the MHFD Manual.

Understanding these flow properties is necessary to assess risks associated with structure flooding and channel erosion and can help guide the design of stream capacity and stabilization improvements. Methods for preliminary channel analysis and hydraulic modeling are described in this section.

10.4.1 Preliminary Channel Analysis

When a preliminary hydraulic analysis is desired for initial conceptual discussions with the City, Manning's equation may be used rather than the detailed analysis provided by modeling software. Assumptions of uniform, steady, and open-flow conditions are required to use Manning. These conditions are mostly theoretical and rarely exist in actuality. Flow computations under these assumptions are approximations only.

10.4.2 HEC-RAS Modeling

The Hydrologic Engineering Center's River Analysis System (HEC-RAS) from the U.S. Army Corps of Engineers (USACE) is the most commonly used software for open channel hydraulic modeling. HEC-RAS is a non-proprietary software and may be downloaded free of charge from the USACE website.

HEC-RAS models must use parameters described in the MHFD chapter on open channels or those documented in the software program. The HEC-RAS Hydraulic Reference Manual is a valuable resource for modeling techniques and parameter selection (USACE, Version 6.0, May 2021 or later, accessible from USACE's website). Justification must be provided for values used that are not consistent with the MHFD Manual and/or the HEC-RAS Hydraulic Reference Manual.

Hydraulic analysis using HEC-RAS is required for the design of major drainageways (i.e., drainages with a tributary area of 130 acres or more) or other drainages with a mapped FEMA floodplain. The use of Manning's Equation is allowed for the hydraulic analysis of minor drainageways (i.e., drainages with a tributary area of less than 130 acres) unless otherwise directed by the Stormwater Director.

10.5 Rock and Boulders

10.5.1 Sizing

Sizing for riprap and boulders must follow the criteria in the *Open Channels* chapter of the MHFD Manual:

1. For mild slope conditions (generally subcritical flow conditions with slopes of less than 2%), Equation 8-11 in the MHFD Manual may be applied.
2. For steep slope conditions, generally 2 to 20%, apply the Colorado State University (CSU) equation, U.S. Army Corps of Engineers Steep Slope Riprap equation or the U.S. Department of Agriculture – Agricultural Research Service equations in the MHFD Manual, including the recommended concentration and scaling factors.
3. For steeper changes in grade such as drop structures and rundowns, refer to the *Hydraulic Structures* chapter of the MHFD Manual for criteria and guidance.

Whether in mild slope or steep slope conditions, consider a safety factor when specifying the size of riprap. Sizing methods presented in the MHFD Manual were developed under controlled laboratory conditions. Field installation of rock is much less precise compared to laboratory conditions. It is difficult to grade riprap flat across a channel bottom or in a manner that provides a uniform slope. Sometimes the riprap delivered from local quarries is slightly smaller than specified. Flow conditions in streams can be affected by a variety of elements including debris, sedimentation, vegetation, etc. and can result in flow concentrations. It is important to include a safety factor when using these equations because of the variability associated with conditions in the field which cannot be quantified.

10.5.2 Specifications

Types of channel armoring approved by the City include soil riprap, void-filled riprap, and boulders. Chapter 8 *Open Channels* of the MHFD Manual provides detailed specifications for each.

10.6 Naturalized Channels Design Criteria

Detailed design parameters for naturalized channels are provided in the *Open Channels* Chapter of the MHFD Manual. The following criteria apply to natural channels and constructed naturalized channels within the City:

1. **Design Flows.** Open channels which are used for urban drainage must be

capable of conveying runoff from all tributary areas using the 100-year design storm criteria. Runoff from drainage catchments within the city limits shall be calculated based upon existing zoning maps, assuming fully developed conditions. Runoff from lands outside the city limits shall be based upon existing development and land use, however, sufficient right of way or easement shall be provided to allow for future channel improvements assuming tributary lands outside of the city limits are fully developed.

2. **Master Plan Information.** If City outfall system or drainage master plans exist, channel designs should be completed with projected future condition hydrology and recommendations consistent with the intent of these plans; however, conformance to or variation from any existing master plans will be determined by the City's review engineer. Where master plans include outdated methodologies, the City will provide guidance on the intent of channel improvements.
3. **Hydraulic Analysis.** A detailed hydraulic analysis of the design reach and any upstream or downstream area of influence must be conducted to inform the design following the guidance in the MHFD Manual. The analysis must be based on HEC-RAS for a suitable range of design events including the 2-year, 10-year and 100-year events, at a minimum. For major drainageways, the 50- and 500-year events must also be evaluated. In some cases, a two-dimensional hydraulic analysis may be appropriate for a project. If this is the case, the applicant must first consult the City to obtain approval for an alternative modeling approach using a two-dimensional model that the City can review using publicly available software.
4. **Regulatory Floodplain Analysis.** A regulatory floodplain analysis must be performed in conformance with City and FEMA floodplain permitting requirements, as approved by the City Floodplain Administrator. Please see Chapter 4 of this Manual, *Floodplains*, for a more extensive description of regulatory floodplain considerations.

Where a natural drainage channel is adjacent to, or within a proposed development, the 100-year floodplain of the channel shall be determined and delineated on the subdivision plat.

The 100-year floodplain shall be established by an engineering analysis which takes into account physical properties of the channel and energy losses along the channel. Appropriate allowances for future bridges or culverts which can raise the water surface profiles and cause the floodplain to be extended shall be included in the analysis. Design flows shall be in accordance with Section 10.6, Item 1. The 100-year water surface profile shall be determined and shown on the drainage plan. Complete documentation shall be included in the drainage report.

5. **Filling of the Floodplain.** Filling of the floodplain to construct naturalized channels must be avoided because it generally increases erosion potential on

the stream, reduces valuable channel and floodplain storage capacity, and tends to increase downstream runoff peaks. Within the floodplain, encroachments into areas mapped as floodways are not allowed to cause an increase in the 100-year water surface elevation. Therefore, cut and fill must be carefully evaluated using a hydraulic model to achieve no rise and some export of material may be necessary.

6. **Erosion Buffer Zone.** An erosion buffer zone must be established and delineated on the subdivision plat extending 25 feet beyond the 100-year floodplain for all natural or naturalized channels. Development occurring less than 25 feet from the 100-year floodplain requires a more detailed analysis of channel erosion and floodplain impacts by a professional engineer with specific training and experience in these subjects. Where these analyses are required, a resume of the engineer's training and experience shall be included with the drainage report. Any exception to this requirement must be approved by the Stormwater Director or their designee through the variance process.
7. **Roughness Factors.** Please refer to Appendix A and the *Open Channels* Chapter of the MHFD Manual for guidance regarding recommended roughness factors (Manning's "n" values) for use in hydraulic analyses.
8. **Grade Control Structures.** Where necessary, grade control structures as described in the *Hydraulic Structures* Chapter of the MHFD Manual shall be constructed at regular intervals to decrease the thalweg slope and to control erosion. If used, complete documentation shall be included in the drainage report.
9. **Freeboard.** The minimum freeboard shall be 1 foot above the computed 100-year water surface elevation to the lowest floor (including basement). Freeboard must be provided in major and minor drainageways and shall not be obtained by the construction of levees.

Freeboard shall not be less than that calculated as follows:

$$H_{FB} = 1.0 + V^2/2g$$

Where H_{FB} = freeboard height (feet)

V = average channel velocity (ft/s)

g = acceleration of gravity = 32.2 ft/sec²

In addition to the freeboard calculated above, additional freeboard must be provided at bends to account for super-elevation of the water surface.

An approximation of superelevation, h (ft), at a channel bend with velocity V (ft/s), centerline radius of curvature r_c (ft), and top width of channel, T_w (ft), can be obtained from the following equation:

$$h = V^2 T_w / g r_c$$

The freeboard shall be measured above the superelevation water surface.

Exceptions to the freeboard criteria described above include bridges, which are required to have 3 feet of freeboard relative to the low chord of the bridge or channels with flows less than 10 cfs which require 6 inches of freeboard when not adjacent to insurable structures.

10. **Swales.** Design charts shown in Section 6 of the *Open Channels* chapter of the MHFD Manual may be used for 100-year design discharges up to 40 cfs.
11. **Synthetic Lining and other Proposed Materials.** Generally, stable channel conditions are to be achieved by applying the principles and materials described in the MHFD Manual. The use of synthetic fabrics for lining of channels and other material differing from standard materials identified in the MHFD Manual (i.e., vegetation, rock, temporary coir, or biodegradable erosion control blanket) will be allowed only upon written approval of a variance from the Director of Stormwater.
12. **Preservation of Natural Features.** Natural channel boundaries and alignments must be preserved, maintained, or enhanced in their natural condition to serve as landscape and visual amenities, to provide focal points for development projects, and to help define “edges” in and around communities. Vegetation groups, rock outcroppings, terrain form, soils, waterways, and bodies of water must be preserved to the extent practicable.
13. **Allowance for Future Vegetation.** Channel capacity must be provided to accommodate anticipated future growth of vegetation within the floodplain, as approved by the review engineer. Overstory canopy trees are allowed and encouraged within the floodplain outside of high hazard areas (e.g., outside of the floodway).
14. **Future Bridges.** Appropriate allowances for known future bridges or culverts, which can raise the water surface profile and cause the floodplain to be extended, must be included in the hydraulic and design analysis. The applicant must contact the City for information on future bridges and roads in undeveloped areas.
15. **Design Drawings.** The existing stream in the design reach and any proposed channel improvements must be clearly shown in plan, profile, section, and detail, as approved by the review engineer.
16. **Pre-submittal Meeting.** For any improvements or alterations to a major drainageway or plans to construct a naturalized channel, the applicant must meet with the City to discuss the concept and obtain the requirements for planning and design documentation.
17. **Environmental Permitting.** A variety of federal (e.g., 404 permit), state (e.g., dewatering, stormwater) and local permits are often required when constructing

open channels. The applicant must obtain necessary permits.

Modification of channels within the normal high-water line may require a U.S. Army Corps of Engineers Section 404 permit. It is the responsibility of the engineer to obtain a 404 permit if required.

18. **Revegetation.** It is important to implement a revegetation plan following any land disturbance activity in or near a drainageway. Vegetation provides stability to channel bed and banks and creates a healthy riparian environment. The *Revegetation* chapter of the MHFD manual provides resources for designing and implementing a revegetation plan. The Pueblo County Colorado State University Extension office website contains links to several documents pertaining to native plants and is another excellent resource for revegetation guidance in the City.

10.7 Maintenance and Easements

All open channels must be designed with adequate maintenance and access provisions and in a manner that facilitates maintenance. The City requires that an Operation and Maintenance (O&M) Manual and Stormwater Facility Maintenance Agreement (SFMA) be completed for all open channels and swales. A copy of the O&M Manual and SFMA are to be provided to both the City and to the owner of the facility or facilities to which they apply. The most up to date forms can be found on the City's Stormwater Utility webpage, along with guidance documents for the preparation of an O&M Manual and SFMA. All drainage reports which include open channel or swale designs must include a Maintenance and Inspection report form to be used by the owner in performing scheduled and post-storm maintenance and inspections. Maintenance and Inspection checklists may be accessed on the Stormwater Utility webpage. Maintenance is the responsibility of the property owner, unless otherwise specified by the Stormwater Director.

Easements are required around all open channels and swales and must be executed with form DPW 110, which can be found on the City's Stormwater Utility webpage. Easements must be wide enough to accommodate flow from the 100-year event, required freeboard, associated facilities, and, if necessary, a 12-foot-wide maintenance access road adjacent to the channel. The required SFMA shall provide for an access easement from the facility to the public right-of-way. Acceptable alternatives will be considered if adequate facility maintenance can be provided. Subdivision easements can be shown on the plat, in which case a DPW 110 will not be needed. However, an SFMA is still required.

Chapter 11.0 Hydraulic Structures

11.1 Introduction

The criteria used for the design of hydraulic structures within the City of Pueblo (City) must be in accordance with the *Hydraulic Structures* chapter of the MHFD Manual (Volume 2, Chapter 9), unless modified herein. Hydraulic structures described in the MHFD Manual include grade control structures in open channels and outfalls and rundowns to convey tributary runoff into streams.

11.2 City of Pueblo Design Criteria

Design criteria applicable to hydraulic structures in the City include the following:

1. **Grade Control Structures - Hydraulic Analysis.** The hydraulic analysis of grade control structures may use the simplified design approach for drop structures described in the *Hydraulic Structures* chapter of the MHFD Manual if the criteria for using simplified design procedures are met. Otherwise, the design of grade control structures must use the detailed hydraulic analysis approach described in the MHFD Manual.
2. **Grade Control Structures – Physical Characteristics.** Designers are encouraged to use smaller grade control structures where practicable, such as rock riffles, rather than larger structures that must be heavily engineered to withstand the hydraulic forces to which they are exposed.

Grade control structures must be constructed from grouted stepped boulders or sculpted concrete unless otherwise approved. The net drop height should be limited to five feet or less to avoid excessive kinetic energy and to avoid the construction of overly large structures.

UngROUTED rock grade control structures may only be used if approved by the review engineer based on a detailed HEC-RAS hydraulic analysis and rock sizing evaluation. Vertical grade control structures (see Photograph 11-5), while discouraged, should not exceed 3 feet to reduce the risk of injury from falling, as well as to reduce the potential for creating dangerous hydraulic conditions.

Existing grade control structures not meeting current criteria must be replaced with compliant grade control structures when the cost of maintenance or repair is greater than 50% of the value of the existing structure.



Photograph 11-5. A series of rock riffles is generally a preferred approach for achieving grade control in a channel as opposed to a vertical structure such as the one shown in this photo. Where used, vertical grade control structures should have a drop of less than 3 feet.

3. **Pipe Outfalls and Rundowns.** As described in the *Hydraulic Structures* chapter of the MHFD Manual, pipe outfalls are preferred over rundowns for conveying tributary runoff into open channels. Rundowns may only be used if approved by the review engineer. If rundowns are used, the applicable criteria described in the MHFD Manual must be met, and riprap protection extending to protect the opposite bank must be provided for protection against erosion.

Chapter 12.0 Culverts and Bridges

12.1 Introduction

A culvert is defined as a conduit for the conveyance of water under a roadway, railroad, canal, or other embankment. In addition to conveying water, culverts also must carry overhead loads from traffic and other activities, and thereby must satisfy critical structural requirements. Proper culvert design is essential because culverts often significantly influence upstream and downstream flood risks, floodplain management, and public safety.

Bridges are typically designed to cross a waterway with relatively minimal disturbance to the flow. However, for practical and economic reasons, abutment encroachments and piers are often located within the waterway. Consequently, the bridge structure can cause adverse hydraulic effects and scour potential that must be evaluated and addressed for each design. The design of a bridge is specific to site conditions and numerous factors must be considered.

The criteria presented in this chapter must be used in the design of culverts and bridges in City of Pueblo (City). The criteria, techniques, and design examples provided in the *Culverts and Bridges* chapter of the MHFD Manual (Volume 2, Chapter 11), are hereby incorporated by reference and are not repeated herein, unless modified by the City.

12.2 General Design and Hydraulic Evaluation

Detailed information on culvert hydraulics, culvert sizing and design, culvert inlets, and outlet protection is provided in the *Culverts and Bridges* chapter of the MHFD Manual. The MHFD Culverts and Bridges chapter also provides references for additional useful information, including the Federal Highway Administration's 2012 Hydraulic Design Series No. 5, *Hydraulic Design of Highway Culverts* (FHWA 2012).

The sizing of a culvert or bridge depends on several factors including the roadway classification (i.e., local, collector, arterial, or highway) and the nature of the waterway. Culverts and bridges should be designed to minimize impacts to waterways to the extent practical.

For culverts, the roadway classification, the allowable roadway overtopping depth (if any), and the allowable headwater depth are key design parameters. Overtopping is not allowed for any roadway classification at major drainageway crossings for the 10-year event.

All new bridge structures must be designed to pass the 100-year flow with an allowance for freeboard between the 100-year water surface elevation and the low chord of the bridge. Hydraulic effects of the bridge must be evaluated to determine the effect of the structure on 100-year water surface elevations and sediment transport.

The hydraulic principles, criteria, roughness coefficients, entrance loss coefficients, culvert capacity charts, and other information provided in the *Culverts and Bridges* chapter of the MHFD Manual must be used in the hydraulic evaluation, sizing, and design of culverts, except as modified herein. The City strongly recommends the use of the MHFD-Culvert spreadsheet in the hydraulic evaluation of culverts.

The criteria in this chapter are considered to be the minimum design standards and may need to be modified where other factors are considered more important. For example, the designer must consider flooding of adjacent structures or private property, excessive channel velocities, availability of alternate routes, and other factors pertinent to a specific site.

12.3 Culvert Criteria

For street crossings, the minimum culvert size is based on the allowable roadway overtopping for the various roadway classifications as set forth in Table 12-1 and allowable headwater depths as discussed in Section 12.3.4. Street overtopping is not allowed for the 10-year frequency or smaller storm.

Table 12-1. Allowable Roadway Overtopping at Culvert Crossings

Street Classification	10-year Storm Event	100-year Storm Event
Local and Collector	No road overtopping allowed	Overtopping at crown governed by maximum depth of 12 inches at gutter flowline. ¹
Arterial	No road overtopping allowed	No road overtopping allowed. ¹ Ratio of maximum headwater (H_w) to culvert diameter (D) may not exceed 1.5 ($H_w/D \leq 1.5$)

¹ Refer to Chapter 7, *Streets*, for further discussion regarding allowable flow depth in the street based on street classification.

Other conditions may be present that will require a larger culvert size, particularly with regard to public safety concerns and upstream and downstream impacts. In some cases, the minimum criteria may result in some structures remaining in the 100-year floodplain, which may require an increase in culvert size to lower the floodplain elevation. Also, if only a small increase in culvert size is required to prevent overtopping, then the larger culvert is required.

Culverts installed beneath local and collector streets shall be designed for runoff from the 10-year design storm. Culverts installed beneath arterial streets shall be designed for runoff from the 100-year design storm.

Culverts installed beneath State Highways shall be designed in accordance with criteria established by the Colorado Department of Transportation.

All culvert designs shall include an analysis that determines whether inlet or outlet control conditions govern.

Ponding above culvert entrances will not be allowed if such ponding will cause property or roadway damage. The limits of ponding area for the 100-year design storm runoff shall be shown on the drainage plan, and drainage easements shall be established to restrict development from within this ponding area.

Culverts discharging into local and major drainageways must account for tailwater effects. This is especially important when culverts discharge in floodplains. If a floodplain is not established by FEMA, the engineer should use the U.S. Geological Survey's StreamStats web-based tool to estimate the peak discharge for the design event and analyze tailwater depths based on topography and hydraulic analysis.

See the MHFD Manual for criteria and design procedures for culvert applications other than street crossings.

12.3.1 Construction Material and Pipe Size

Within City of Pueblo, culverts must be constructed from ASTM C76 Class III reinforced concrete or better. Other materials for construction, including High Performance (HP) Storm Polypropylene Pipe, are subject to written approval by the Stormwater Director. The minimum pipe size for circular culverts within a public right of way is 18 inches, and the same minimum pipe size applies to roadside ditch culverts for driveways. The minimum size for arch culverts is 13.5" x 22", and the minimum size for elliptical pipe is 14" x 23".

12.3.2 Multiple Pipe Culverts

Where multiple-pipe culvert installations have been approved by the City, the spacing between pipes shall be equal to one-half ($\frac{1}{2}$) of the outside pipe diameter or three feet, whichever is less.

12.3.3 Inlet and Outlet Configuration

Within City of Pueblo, all culverts must be designed with headwalls, wingwalls, and aprons, or with flared end sections at the inlet and outlet. Flared end sections are not recommended on pipes with diameters greater than 36 inches where a combination headwall/wingwall configuration may be advantageous. Refer to the MHFD *Culverts and Bridges* chapter for guidance on layout and configuration of culvert headwalls and wingwalls. Construction of headwalls and wingwalls must be in accordance with CDOT M Standards. Both must be located a sufficient distance from the edge of the shoulder to allow for a maximum slope of 3 horizontal to 1 vertical to the back of the structure.

Outlet protection is required at culvert outfalls to minimize the potential for erosion immediately downstream of culverts. Outlet protection such as riprap armoring or concrete aprons helps to stabilize the transition from the culvert to the downstream

channel. See the *Culverts and Bridges* and *Hydraulic Structures* chapters of the MHFD Manual for guidance and criteria on outlet protection.

For design of culvert inlets and outlets, the designer should consider compatibility with the upstream and downstream channels including geometry, hydraulics, and aesthetics.



Photo 12-1. A twin-barrel culvert with flared-end sections is shown with a grouted rock headwall.

12.3.4 Headwater Considerations

The maximum headwater (Hw) for the 100-year design flows for Arterial streets must be no more than 1.5 times the culvert diameter (D), or 1.5 times the culvert rise dimension for shapes other than round. Also, the headwater depth may be limited by the street overtopping criteria in Table 12-1.

12.3.5 Structural Design

As a minimum, all culverts must be designed to withstand an HS-20 loading (unless designated differently by City of Pueblo) in accordance with the design procedures of the American Association of State Highway and Transportation Officials (AASHTO) in *Standard Specifications for Highway Bridges* (AASHTO 2002) and with the pipe manufacturer's recommendation.

For large structures or where groundwater is a problem, the design shall include necessary provisions to resist hydrostatic uplift forces that could result in failure of the structure.

12.3.6 Safety Grates

Consider using safety grates on the inlets of culverts and underground pipes that are accessible to the public. Guidance and criteria in the MHFD *Culverts and Bridges* chapter (Volume 2, Chapter 11) specify when safety grates are required and the respective design criteria. Effects on hydraulic forces, clogging potential, and the effects

of clogging should always be evaluated as they relate to both public safety and hydraulic capacity. Safety grates should not be installed on outlets.

12.3.7 Culvert Design Considerations

All of the design criteria for culverts described in this chapter must be followed. Key factors to consider for design include:

1. No street overtopping is allowed at culvert crossings for the 10-year storm event.
2. Check minimum and maximum culvert velocities. The minimum flow velocity in a culvert shall be 3 ft/sec using estimated flows from the 5-year design storm. The maximum flow velocity at the outlet should be limited to the maximum channel velocities provided in the *Open Channels* chapter of the MHFD Manual. Where discharge velocities exceed this criterion, an approved energy dissipating structure must be constructed at the outlet.
3. The minimum culvert size for crossing the public right of way is 18-inch diameter or equivalent.
4. The minimum culvert size for roadside ditches at driveways is 18-inch diameter or equivalent.
5. Headwalls and wingwalls must be provided for all culverts with a diameter larger than 30 inches.
6. Check maximum headwater for design conditions. The ratio of maximum headwater to culvert diameter, H_w/D , may not exceed 1.5. Street overtopping criteria in Table 12-1 must also be satisfied.
7. Check structural requirements and emergency overflow route.
8. Consider public safety including accessibility to the public, maximum velocities, guard rails, embankment, slopes, and other factors.

12.4 Bridge Criteria

The hydraulic design of a bridge is specific to site conditions and numerous factors must be considered. A partial list of these factors includes location and skew, structural type selection, water surface profiles and required freeboard, floodplain management and permitting, scour considerations, deck drainage, and environmental permitting. The consideration of these factors necessitates every bridge project having a unique design. All new bridges must be designed to safely convey the major design storm event flows with the required freeboard. Replacement bridge structures should also be designed to the same standards; however, depending on the site conditions, adjustments to the criteria may be necessary.



Picture 12-2. Bridge on Union Avenue crossing Pueblo's Historic Arkansas Riverwalk.

12.4.1 Bridge Freeboard

A minimum of 3 feet of freeboard is required for bridges, measured from the 100-year water surface elevation to the lowest elevation of the bridge low chord. The design engineer must consider the profile grade of the bridge and roadway, potential for debris accumulation, predicted sedimentation, maintenance requirements, and other site-specific conditions to determine whether additional freeboard should be provided for the crossing structures.

12.4.2 Hydraulic Analysis

Hydraulic analysis of the channel passing under the bridge must be of sufficient extent upstream and downstream to identify any conditions that might affect the hydraulic performance of the channel and structure. The channel cross section, including the low-flow channel, should be maintained through the bridge to the extent practical to minimize changes to the hydraulics of the channel. Generally, a rise of no more than 0.5 foot in the water surface of the channel through the bridge structure should occur.

Appropriate sediment transport and scour analyses must also be completed to account for long-term changes in the channel bed or cross section.

Many acceptable manuals are available for use in bridge hydraulic studies and river stability analysis. Consult the *Open Channels* and *Hydraulic Structures* chapters of the MHFD Manual for basic criteria and information regarding other publications and resources. Additional references include the *CDOT Drainage Design Manual* (CDOT 2019) and FHWA publications including *Highways in the River Environment — Floodplains, Extreme Events, Risk, and Resilience*, *Hydraulic Engineering Circular No. 17* (FHWA 2016), *Evaluating Scour at Bridges* (FHWA 2012), and *Stream Stability at Highway Structures* (FHWA 2012).

12.4.3 Low Water Crossings and Pedestrian Bridges

Crossings for pedestrian use can vary greatly from small, low-use crossings to regional trail crossings. The crossings can have impacts on the floodplain, wetlands, and wildlife habitat. For these reasons, pedestrian and low-water crossing criteria are addressed on an individual basis, with criteria established following submittal of a request for the crossing. Consideration must be given to floodplain impacts, debris accumulation and passage, sediment transport, structural design, tethering of the structure or potential blockage of other conveyance structures, clearances to water levels and structural members, maintenance responsibility and cost, and construction and replacement cost of the structure.

This page intentionally left blank.

Chapter 13.0 Detention

13.1 Introduction

This chapter provides technical criteria for the planning and design of detention (storage) facilities. Design criteria in the *Storage* chapter of the MHFD Manual (Volume 2, Chapter 12) are hereby incorporated by reference. Except as modified herein, all detention facility designs within the City of Pueblo (City) must be in accordance with the MHFD Manual.

The main purpose of a detention facility is to store excess storm runoff associated with increased watershed imperviousness and to release the excess runoff at a rate similar to the rate generated by the watershed without development, for a range of storm events described further below.

Detention of flood flows is required for all development and redevelopment projects that add more than 5,000 square feet of impervious area. The purpose of the requirement is to reduce urban drainage problems as well as reduce the costs of maintaining drainage facilities. All redevelopment projects that are already impervious may be required to detain as required by the Stormwater Director if the area is deemed to be a flood area.

For sites less than 1 acre, the City strongly recommends the use of sand filters or bioretention facilities. Extended detention basins are not recommended for smaller sites as the smaller diameter orifice plate openings plug easily.

Pumped detention basins are not allowed to serve as permanent water quantity or quality control measures for any development within the City. This is because electromechanical systems can be unreliable, require frequent and costly maintenance, and may trigger requirements for water quality monitoring. However, temporary pumped detention basins are sometimes necessary during construction to store water until a permanent, gravity outfall is available. The City may approve such temporary pumped detention basins as an interim solution during construction until a permanent outfall is built. Such special design considerations must be reviewed and approved by the Stormwater Director or their designee.

Full Spectrum Detention (FSD)

FSD is a storage-based approach to managing stormwater runoff which provides benefits to water quality, channel stability, flood control, and peak discharge attenuation. It is based on detaining the excess urban runoff volume (EURV) and releasing it over approximately 72 hours.

The EURV is the increase in runoff volume from undeveloped to urbanized conditions. The EURV includes the water quality capture volume (WQCV), which corresponds to the 80th percentile storm runoff event. FSD helps offset some of the impacts that urbanization has on the downstream drainage network.

13.2 Full Spectrum Detention

All detention facilities must be designed to provide Full Spectrum Detention (FSD) in accordance with the *Storage* chapter of the MHFD Manual. As such, three control volumes are integrated into the design: 1) the water quality capture volume (WQCV), 2) the excess urban runoff volume (EURV), and 3) the 100-year event volume.

In the City, the WQCV is considered to be a “nested” part of the EURV and the 100-year event volume and does not need to be added to the EURV or overall 100-year storage volume. The 100-year event volume must be provided below the crest elevation of the emergency spillway of the detention facility, with peak discharges in excess of the storage capacity discharged via the spillway. The embankment height must be sufficient to pass emergency spillway flows with freeboard as described in Section 13.8.5 below.

13.3 Integration of Water Quality and Flood Control Detention

FSD integrates water quality and flood control detention through a process shown in Figure 13-1. As described in the *Storage* chapter of the MHFD Manual, FSD may combine the three control volumes for WQCV, EURV, and 100-year detention into one facility or have separate facilities for any of the three volume components.

Figure 13-1. Major Steps for Integrating Full Spectrum Detention and Water Quality into Storage Facilities in the City of Pueblo

Step 3. Size the EURV and 100-year Storage Volume:

- Check that WQCV drains in appropriate draw down time for the type of practice (12 – 40 hours, depending on BMP)
- Check that the EURV drains in less than or equal to 72 hours

Step 2. Calculate the WQCV for the Measure to be Integrated with FSD:

- Bioretention
- Sand Filter
- Extended Detention Basin
- Retention (Wet) Pond
- Constructed Wetland Basin

Step 1. Select & Design Runoff Reduction Measures: (Required on all projects)

- Grass Buffers/Swales
- Unconnected Impervious Area (direct shallow drainage to receiving pervious areas)

Note: Stabilizing drainageways and providing source control measures are two additional steps in the MHFD’s Four Step Process for protecting water quality. Drainage stabilization is addressed in Chapter 10 (*Open Channels*), and Source Controls are addressed in Chapter 14 (*Stormwater Quality*).

Structural stormwater control measures (SCMs¹) listed in Figure 13-1 that may be used to provide WQCV treatment include the following:

Bioretention facilities

- Sand filters
- Extended detention basins
- Retention (wet) ponds
- Constructed wetland basins

Fact sheets for each of these types of SCMs are provided in Volume 3 of the MHFD Manual. Additional discussion of stormwater quality measures is provided in Chapter 14 of this Manual.

Water quality and flood control detention are required for all projects that disturb more than 1 acre. Detention measures must also be implemented for sites that fall below this threshold, but which involve an increase in impervious area of at least 5,000 square feet. The City strongly recommends the use of bioretention facilities and sand filters in sites less than 1 acre.

Stormwater management approaches that involve avoiding detention requirements based on timing of hydrographs from design storms (e.g., discharging from the pond to beat the peak flow rate in the channel) will not be accepted by the City as justification for a variance.

The City of Pueblo requires integration of flood control detention and water quality treatment. The following references describe strategies to achieve this integration:

- Chapter 14 of this Manual (*Stormwater Quality*)
- *Storage* chapter of the MHFD Manual (Volume 2, Chapter 12)
- *Stormwater Quality* volume of the MHFD Manual (Volume 3)

13.4 Regional Detention Facilities

Regional Detention Facility Criteria:

1. The regional detention facility is designed to accommodate the fully developed flows from the upstream watershed.

¹Historically SCMs have been referred to as stormwater best management practices (BMPs). In this Manual, the acronym “SCM” is used since this is the current terminology used to describe stormwater quality management practices in the City’s Phase II MS4 Permit.

2. The regional detention facility is constructed or will be constructed in phases with the development; otherwise, temporary detention must be provided.
3. Legally binding ownership and maintenance responsibilities by a public entity are clearly defined to ensure the proper function of the facility in perpetuity.
4. There is adequate conveyance of the fully developed flows from the site to the regional detention facility.
5. Design of the regional detention facility is completed in accordance with the MHFD Manual and the requirements in Colorado Revised Statutes (CRS) §32-11-221(1) for drainage facilities. All regional facilities must satisfy the design, construction, and vegetation criteria in the most current version of the MHFD Manual. The design must also consider the following criteria:
 - a. For regional detention basins, designers should consider compatibility with surrounding land uses. For example, a detention basin in a residential or open space area should consider potential aesthetic and/or recreational uses, while a detention basin serving an industrial area would not likely include such considerations.
 - b. The creation of jurisdictional dams is strongly discouraged. Depending on the size of the detention basin, it may not be feasible to avoid creation of a jurisdictional dam in some situations, and design should not be compromised simply to avoid creating a jurisdictional design. Nonetheless, it is desirable when good design can avoid creating embankment heights that trigger state dam safety regulations for jurisdictional dams.
 - c. Regional detention basins must be located on existing publicly owned lands wherever possible.
 - d. Regional flood control detention facilities must incorporate the regional WQCV for stormwater quality regardless of whether developments upstream of the regional facility provide onsite stormwater quality enhancement as identified in Chapter 14, *Stormwater Quality*.

13.5 Relationship to Adjacent Properties and Structures

Impacts to upstream and downstream properties relative to proposed detention facilities must be considered and minimized by the design of appropriate facilities. Designs must take into account the location of structures near detention facilities and plan accordingly to reduce the likelihood of seepage into basements and structural damage by ensuring finished floor elevations of structures adjacent to ponds are 1.0 feet above the water surface elevation when the emergency spillway is conveying the maximum design flow or emergency flow. If a detention pond is planned adjacent to an irrigation canal, the developer/engineer is required to submit a seepage analysis to demonstrate that the development is not impacting seepage into or out of the canal and, if necessary, to

inform the design of control measures, as needed, to mitigate the potential effects of the development related to seepage.

13.6 Maintenance and Easements

All detention facilities that require periodic maintenance must be designed to allow for all-weather, stable maintenance access. Slopes for haul road surfaces should not exceed 10%. Skid-loader and backhoe access surface slopes should not exceed 20%. Stabilized access includes concrete, articulated concrete block, concrete grid pavement, reinforced grass pavement, or geogrid designed to support the weight of maintenance vehicles. The recommended cross slope is 2%. Maintenance access also includes providing storage and staging areas for sediment and debris removal during maintenance activities.

To ensure proper maintenance of control measures is being performed, the City requires that an Operations and Maintenance (O&M) Manual and Stormwater Facility Maintenance Agreement (SFMA) be completed for all detention facilities. A copy of the O&M Manual and SFMA are to be provided to both the City and to the owner of the facility or facilities to which they apply. The most up to date forms can be found on the City's Stormwater Utility webpage, along with guidance documents for the preparation of an O&M Manual and SFMA. All drainage reports which include detention pond designs must include a maintenance and inspection report form to be used by the owner in performing scheduled and post-storm maintenance and inspections. Maintenance and Inspection checklists for each stormwater detention facility may be accessed on the Stormwater Utility webpage. Maintenance is the responsibility of the property owner, unless otherwise specified by the Stormwater Director.

Easements are required around all detention facilities to ensure adequate long-term operation and maintenance and must be executed with form DPW 110, which can be found on the City's Stormwater Utility webpage. The City requires that easements for detention facilities be wide enough to contain storage, freeboard and associated facilities. Easements shall also be provided for potential emergency spillway discharge, to the receiving drainage easement or right-of-way. Acceptable alternatives will be considered if adequate facility maintenance can be provided. Subdivision easements can be shown on the plat, in which case a DPW 110 will not be needed. However, an SFMA is still required.

If the owner fails to maintain the control measures, the SFMA gives the City the right to access the drainage easement via public ROW, abutting private roadway, and/or private driveway to perform the needed maintenance. In special cases, the City will agree to take over maintenance, in which case, 12 ft wide vehicular maintenance access must be provided as follows: 1) from public ROW or public property to the detention facility, 2) around the perimeter of detention facility, and 3) to the bottom of the detention facility.

13.7 Office of the State Engineer Coordination

13.7.1 Jurisdictional Dam Requirements

Any dam constructed for the purpose of storing water with a surface area, volume, or dam height as specified in CRS §37-87-105, as may be amended, requires the approval of the plans by the Colorado Office of the State Engineer (SEO). Those facilities subject to state statutes must be designed and constructed in accordance with the criteria of the state, in addition to the criteria in this Manual. To the extent that SEO criteria and requirements differ from the requirements in this Manual, the more restrictive requirements apply. Construction of jurisdictional dams for detention facilities is strongly discouraged due to the higher level of hazard posed by a jurisdictional dam. In some cases, depending on the size of the detention facility, creation of a jurisdictional dam may be unavoidable. In these cases, compliance with the Colorado Rules and Regulations for Dam Safety and Dam Construction (2 CCR 402-1) is required.

The responsibility for filing plans and specifications with the SEO shall rest with the developer or engineer and, accordingly, adequate time must be allowed for the review process by the SEO to take place. City approval of the detention facility is contingent upon approval by the State Engineer.

Certification that the dam was constructed in accordance with approved plans and specifications shall be provided to the City by a qualified geotechnical engineer upon completion of construction. The cost of this certification shall be borne by the developer.

13.7.2 Drain Time Requirements

Detention facilities must undergo a notification process with the SEO in conformance with CRS §37-92-602(8), as may be amended, and present documentation that drain times conform with the requirements of this statute. Refer to Table 14-2 in the *Stormwater Quality* chapter of this Manual for guidance on stormwater facility reporting requirements. Colorado water law requires that 97% of the 5-year or smaller event drain within 72 hours and that 99% of the 100-year event drain within 120 hours. Facilities that do not drain within these time periods require water rights, including plans for augmentation to replace evaporative losses, and should be avoided in the City. Augmentation plans are costly, both to acquire suitable water rights and to adjudicate and administer the plans.

13.8 Design Standards for Detention Facilities

The *Storage* chapter of the MHFD Manual provides figures illustrating typical combinations of water quality facilities such as extended dry detention basins (EDBs), sand filters, and other facilities with FSD. Individual components of an above-ground detention facility are discussed in the subsections below.

13.8.1 Storage Volume

Detention basins should be sized to accommodate the 100-year storage volume and provide a release rate that does not exceed the 100-year historic flow. Acceptable methods for sizing detention facilities in the City include the *Pueblo-Detention* workbook (recommended), as well as hydrograph routing using CUHP and SWMM.

Inflows to the detention facility shall be calculated assuming fully developed conditions in the tributary basin.

13.8.2 Grading Requirements

Grading requirements for stormwater detention facilities located in the City of Pueblo must be in accordance with Table 13-1. All slopes must be 4:1 or milder. The use of retaining walls for detention facilities is generally not preferred by the City due to safety and maintenance concerns.

Table 13-1. Grading Criteria for Detention Facilities

Slope Description	Criteria
Earthen embankment slopes	No steeper than 4 (horizontal):1 (vertical)
Bottom slope of detention facilities	No less than 2%, toward the low flow (trickle) channel

Earthen embankments must be covered with a minimum of 6 inches of approved topsoil and revegetated with grass in accordance with the *Revegetation* chapter of the MHFD Manual.

Groundwater inflow to detention facilities must be avoided. The bottom of the detention facility storage area must be graded to be at least 2 feet above the observed high groundwater elevation.

13.8.3 Detention Pond Location Relative to Floodplains

Wherever possible, stormwater quality and detention facilities should be located outside of FEMA-designated 100-year floodplains, so they are not inundated by riverine flooding during a flood event. In some cases, it may not be feasible to locate these facilities outside of the 100-year floodplain, and through a variance process, the City may consider approval of a facility within the 100-year floodplain provided that it is located outside of and above the 10-year floodplain level defined in the Flood Insurance Study or based on a separate analysis accepted by the Stormwater Director.

13.8.4 Retaining Walls

While the use of retaining walls for detention facilities is not encouraged, the City recognizes they are sometimes necessary, particularly in higher density urban areas. In general, however, their use is not preferred due to safety and maintenance concerns and their use is discouraged. If walls are unavoidable, low-height walls less than 30

inches high that are constructed of natural rock or landscape block are preferred. Plain-faced concrete walls are allowed in industrial settings or when used for outlet structures. Long-term maintenance access, safety, and aesthetics are important design considerations.

Walls may not be continuous around a detention facility to allow access for maintenance equipment. Maintenance equipment must be able to safely reach the bottom of the facility, including the forebay and outlet structure, and have adequate space to operate and turn. If multiple retaining walls are used, a separation of at least 4 feet must be provided between tiered walls. Foundation walls of buildings may not be used as detention basin retaining walls. If accepted by the City, a railing will be required for any retaining walls exceeding a height of 30 inches (as measured from the ground surface to the top of the wall). Detention basins with retaining walls should be located away from major pedestrian routes, and emergency egress routes from detention basins must be provided.

A licensed professional engineer must perform a structural analysis of retaining walls that exceed 48 inches in height for the various loading conditions the wall(s) may encounter. The wall design and calculations must be stamped by a professional engineer and submitted to the City for review. The structural design details and requirements for the retaining wall(s) must be included in the construction drawings.

13.8.5 Emergency Spillway and Freeboard

The design flow for the emergency spillway of detention facilities is the 100-year undetained flow from the contributing watershed for fully developed watershed conditions. This criterion is to address a scenario with a plugged outlet structure and a full pond during the 100-year runoff event. The elevation of the top of the embankment must be a minimum of 1 foot above the water-surface elevation when the emergency spillway is conveying the 100-year flow with the outfall structure in a 100% blocked condition. For ponds with a depth of three feet or less, the required freeboard is 0.5 foot above the water-surface elevation when the emergency spillway is conveying the 100-year flow with the outfall structure in a 100% blocked condition. Parking lot detention requirements differ, as explained in Section 13.8.12.

The engineer shall analyze the emergency flow path of the spillway back to the natural drainageway. Documentation of the spillway design, dam protection and emergency flow path analysis shall be included in the Drainage Report.

Some conditions may require more stringent emergency spillway criteria than presented in the *Storage* chapter of the MHFD Manual. When a storage facility's size dictates that it be subject to the requirements of the SEO as a jurisdictional dam, the spillway's design storm is prescribed by the SEO (SEO 2020). Also, analysis of downstream hazards may indicate that the spillway design storm will need to be larger than the 100-year event.

13.8.6 Inlet and Forebay

Inlets and sediment forebays must be sized in accordance with the MHFD Manual. The intent of the forebay is to reduce loading of sediment and debris to the main body of a detention facility. A forebay or equivalent pre-treatment facility is required for all detention basins. Riprap is not considered to be pre-treatment. Alternative designs may be considered with the City's approval.

13.8.7 Low Flow (Trickle) Channel

All grassed-bottom detention basins must include a low flow (trickle) channel designed according to the *Extended Detention Basin Fact Sheet* in Volume 3 of the MHFD Manual. The MHFD Manual has options for concrete-bottom and vegetated low flow channels. Vegetated low flow channels can provide enhanced water quality benefits and may be considered when site conditions are appropriate, with approval of the Stormwater Director.

13.8.8 Outlet Configuration

The MHFD Manual and website provide design guidance, design details, and examples for several detention facility outlet configurations. See the *Outlet Structures Fact Sheet* in Chapter 4 of Volume 3 of the MHFD Manual for criteria related to outlet structure design, including criteria for orifice plates, micropools, trash racks, and safety grates.

All detention facilities in the City must incorporate the following:

1. The mounting hardware for the orifice plate and trash racks must be stainless steel.
2. Orifice plates must be stainless steel.
3. The WQCV and/or EURV orifice plate must have a neoprene gasket between the plate and outlet structure to prevent leakage.
4. The configuration of the orifice plate openings must be in accordance with the Outlet Structures Fact Sheet in Volume 3 of the MHFD Manual. In general, fewer large orifices are preferable to many small orifices to reduce the likelihood of plugging, while still meeting the required drain times stipulated in the *Storage* chapter (Chapter 9, Volume 2) and in the Treatment BMPs chapter (Chapter 4, Volume 2) of the MHFD Manual. The 100-year orifice control typically is located at the entrance to the outlet pipe. The *Pueblo-Detention* workbook can be used for sizing the openings of the orifice plate and other outlet hydraulic controls.
5. If orifices are 1 inch square or 1.25 inches in diameter or larger, fabricated bar grating with nominal openings of 1 by 4 inches is recommended in lieu of a well screen.

6. Outlets must incorporate micropools in conformance with the *Outlet Structures* Fact Sheet in Volume 3, and the well screen (or bar grating as appropriate) must extend to the bottom of the micropool.

13.8.9 Landscaping Requirements

Detention areas and embankments should be designed and constructed to blend with their surroundings to create site amenities rather than eyesores. In open space or natural areas, techniques to be considered include creation of topographic changes that mimic natural conditions (including a variety of slope changes), using natural materials such as stone, blending with the textures and patterns of the surrounding landscape, and using materials that match the local environment. No plain-faced precast or cast-in-place concrete is allowed in residential and commercial areas, with the exception of outlet structures, though these types of concrete may be allowed in industrial areas. Existing drainage patterns should be preserved whenever possible.

Above-ground detention basins should be vegetated in accordance with the criteria in the *Revegetation* chapter (Chapter 13, Volume 2) of the MHFD Manual. When determining landscaping, enhancement of the basin aesthetics and long-term maintainability of the facility should be high priorities. The following is a list of guidelines for basin landscaping (adapted from the Douglas County Storm Drainage Criteria Manual, 2008):

1. In areas that will be viewed by the public, detention facilities should be designed to fit into the surrounding landscape and should add to the overall character of an area. The shape of a detention basin should be as natural looking as practical, with terracing of the slopes and a bottom that slopes toward the low flow (trickle) channel. The tops and the toes of slopes should vary, and undulation in the shape and grading of the sides of the detention area is encouraged. In industrial settings with restricted public access, a natural-looking appearance is typically less important, and other factors such as ease of maintenance may be a higher design priority. In general, the landscaping and aesthetics of detention facilities should be designed for compatibility with adjacent and nearby land uses.
2. Slopes should be well vegetated to prevent erosion. The use of appropriate groundcovers and grasses at the tops of slopes helps to soften the appearance of the detention area and can incorporate the detention area into the surrounding landscape. Appropriate plant material, such as wetland species or drought-tolerant species, should be planted in the detention area and on the slopes. Shrubs and trees should be offset from the top of the slope and placed so they do not interfere with maintenance and so that tree roots will not cause structural problems. Native and perennial species should be used to the extent practical.
3. The use of wood mulch in and adjacent to detention facilities is discouraged because of the potential for mulch to be displaced and clog outlet structures. Mulch placed over filter fabric is particularly susceptible to displacement and

should not be used on slopes greater than 6 (horizontal) to 1 (vertical) or in areas located below the 100-year water surface elevation. The use of rock mulch is discouraged because it is difficult to remove sediment from the rock.

Typically, runoff is conveyed to detention facilities in a storm drain pipe. When runoff is conveyed to the detention facility via a swale or in cases where the storm drain pipe discharges higher up on the pond embankment, rundowns may be needed to minimize erosion at inflow points. Where rock or concrete rundowns are used, they should be compatible with the overall design, including the aesthetics of the facility.



Photo 13-1. A neighborhood detention basin blends into the surrounding landscape and functions as an attractive open space area and community amenity.

13.8.10 Multiple Use Considerations

Utilizing detention facilities for multiple uses is encouraged; however, it is critical to minimize conflicting uses. In some portions of the City, including areas of residential development, multi-use facilities that provide benefits related to aesthetics, wildlife, and recreation are desirable. However, detention facilities conflicts with recreation uses may result from the time required for a detention area to drain and dry out, safety in areas used for children's recreation, mosquito-borne illness concerns (e.g., West Nile virus), and protection and enhancement of wildlife. In other settings, such as industrial areas, detention facilities may not be compatible with objectives such as recreation, though other multi-uses such as combining stormwater management with parking may still be beneficial.

Considerations for multi-use detention facilities include the following:

- Compatibility of the facility design with constraints related to surrounding land uses, cultural and historical preservation requirements, or other protective constraints such as those related to aquatic or terrestrial wildlife habitat.
- Compatibility with recreational uses including the proposed level of organized recreation activities versus informal or passive recreation in a park.
- Technical constraints and opportunities including terrain, soil characteristics, turf management, and irrigation requirements.
- Compatibility of a park with the planned scale of a detention facility. For example, proposing to use a small neighborhood park (under 5 acres) would likely not be appropriate for a large detention facility.
- The configuration and easements for underground utilities and their impact on the existing park land.
- The potential for total rehabilitation of existing sites to accommodate multi-purpose uses.
- Integration with other aspects of the open space system, including the potential for new natural areas and wildlife corridors.
- Recognition that a multi-use detention facility does not allow for any direct, active use of the water impounded in or passing through the facility. For example, water may not be pumped out of the detention facility may not be used for irrigation purposes.
- Consideration of maintenance and operations, including successful techniques for dealing with silt, debris and trash, and the funding resources for maintenance. These considerations should be reflected in the facility Operation and Maintenance (O&M) manual.

13.8.11 Roadway Embankment Protection

In cases where a detention pond uses a roadway embankment to contain stormwater, the embankment shall be protected from catastrophic failure due to overtopping. Overtopping can occur when the pond outlets become obstructed or when an event with a return frequency greater than 100-years occurs. Protection of the embankment from failure caused by erosion at the emergency overflow may be provided in the form of a buried heavy riprap layer (such as Type H riprap with a d50 of 18 inches) on the downstream face of the embankment or a separate emergency spillway with a minimum capacity of twice the maximum release rate for the 100-year storm. Structures shall not be permitted in the path of the emergency spillway or overflow. The invert of the emergency spillway should be set equal to or above the 100-year water surface elevation.

13.8.12 Parking Lot Detention

Parking lot detention is allowed in the City with a maximum depth of 12 inches and freeboard of 6 inches for the 100-year design storm. All parking lot detention areas must have signs posted identifying the detention basin area. The signs must have a minimum area of 1.5 square feet with the following message:

WARNING This area is a stormwater detention facility and is subject to periodic flooding.
--

Multiple options for suitable materials, geometry, and number of signs are permissible, subject to approval by the Stormwater Director or their designee.

13.9 Underground Water Quality and Detention Facilities

Underground water quality and detention facilities are prohibited in the City, unless approved through the variance process, for the following reasons:

- Underground water quality and detention facilities are not visible; therefore, these types of facilities tend to be “out-of-sight, out-of-mind.” As a result, underground facilities are prone to not receiving regular maintenance or performance evaluations.
- Maintenance access may be more complex, which can be a deterrent to performing routine maintenance. Additionally, confined space entry and special safety requirements may apply, depending on the installation.
- Anaerobic conditions in bottom sediments (i.e., an absence of dissolved oxygen) are more likely to develop in underground devices. This condition can release pollutants bound to the sediment and result in bad odors.
- Vegetation within above-ground systems provides benefits in addition to stormwater management, including the reduction of urban heat, improvement of habitat for wildlife and vegetation, and removal of air pollutants.

Generally, sufficient land exists in the City to implement surface-based water quality and detention practices. Underground practices may be considered on a case-by-case basis if the applicant can demonstrate that reasonable surface-based alternatives are not feasible. The use of underground practices requires a variance request and approval by the Stormwater Director. The following criteria must be met for consideration of underground practices:

1. The applicant has demonstrated that surface-based practices are not feasible. Analysis by the applicant must include an evaluation of alternative site layouts, consideration of reduced density of development, and sizing and conceptual design of surface-based practices to demonstrate that surface-based water

quality and detention practices are not feasible given the ultimate use of the site and site characteristics.

2. The applicant has provided adequate assurances for long-term operation and maintenance of the underground storage facility, including arrangements for regular inspection and maintenance using appropriate equipment for the type of underground facility being proposed.
3. The design provides for access hatches or manholes for accessing the underground facility in areas where access will not be restricted by parked vehicles or other surface uses of the area.
4. The performance of the underground facility will be comparable to above-ground facilities and will meet the criteria for underground SCMs described in Volume 3 of the MHFD Manual.

13.10 Design Standards for Retention (Wet) Ponds

13.10.1 Allowable Use

Refer to the *Storage* chapter and *Retention Pond* Fact Sheet of the MHFD Manual for allowable uses for retention ponds. The City allows retention ponds to be used as a water quality practice, but water rights are required for ponds used for this purpose. Retention ponds used to achieve water quality requirements have a permanent pool that remains between storm events and a surcharge volume that fills and drains during periods of runoff. Retention of stormwater runoff is not an allowable flood control practice in the City of Pueblo.

The City may require any existing retention ponds be converted to detention (fill and drain) facilities as soon as an adequate outfall is available to receive flow releases from the facility. This requirement is necessary to avoid costly water rights acquisitions and adjudications. Colorado water law requires that 97% of the 5-year or less event must drain within 72 hours and that 99% of the 100-year event must drain within 120 hours. Existing retention facilities must be retrofitted to achieve these drain time criteria to comply with Colorado water law; otherwise, a water right must be obtained (CRS §37-92-602(8) Frequently Asked Questions, 2015).

13.10.2 Design Standards for Retention Ponds

Refer to the *Retention Pond* Fact Sheet in Volume 3 of the MHFD Manual for applicable design standards.

13.11 Summary of Key Design Considerations

All of the design criteria described in this chapter must be followed. Several key considerations that the designer must address include:

1. Slope grading (Section 13.8.2).

2. The bottom elevation of the detention basin storage area must be at least 2 feet above the observed high groundwater elevation. Groundwater inflow into detention systems is not allowed (Section 13.8.2).
3. Finished floor elevations and freeboard of structures located near detention basins (Section 13.5).
4. Emergency spillway and emergency overflow path (Section 13.8.5).
5. Maintenance access to structures such as inlets, forebays, low flow (trickle) channel, outlet and spillway (Section 13.6).
6. Low flow (trickle) channels (Section 13.8.7).
7. Trash racks and micro-pools at all outlet structures (Section 13.8.8).
8. Signage (Section 13.8.8 and 13.8.12).

This page intentionally left blank.

Chapter 14.0 Stormwater Quality

14.1 Introduction

The City of Pueblo (City) requires permanent stormwater control measures (SCMs), formerly referred to as best management practices (BMPs), to be implemented at development and redevelopment projects. The purpose of SCMs is to reduce erosion and the transport of sediment and other stormwater pollutants in order to improve the water quality in the City's streams, lakes, and wetlands. These requirements are also necessary for the City to comply with Colorado's water quality regulations and the City's Municipal Separate Storm Sewer System (MS4) discharge permit, as well as total maximum daily load (TMDL) requirements for Wildhorse Creek.

Stormwater Control Measure Terminology

"Stormwater control measure" (SCM) refers to any best management practice (BMP) or other method used to prevent or reduce the discharge of pollutants to waters of the state. SCMs include, but are not limited to, BMPs, green infrastructure (GI), green stormwater infrastructure (GSI), and low impact development (LID).

Additional information regarding the current water quality condition of stream segments in the City of Pueblo may be accessed through the Colorado Department of Public Health and Environment (CDPHE) (<https://cdphe.colorado.gov/clean-water-gis-maps>) or the Environmental Protection Agency (EPA) (<https://mywaterway.epa.gov/>). The City incorporates Volume 3 of the MHFD Manual as the basis for its stormwater quality design criteria.

14.2 MS4 Permit

14.2.1 Areas Included in MS4 Permit

Development sites with one acre or more of land disturbance and located within the MS4 permit boundary are subject to Post-Construction Stormwater Management in New Development and Redevelopment Control Measure Requirements as outlined in General Permit No. COR090000. The current MS4 boundary in Pueblo County may be found on the Colorado Department of Public Health and Environment (CDPHE) website (see Stormwater Utility webpage for link). Current base design standards include the following parameters. Specific standards may be found in the City's current MS4 permit.

- Water Quality Capture Volume (WQCV) Standard: Requires treatment or infiltration of the WQCV.
- Pollutant Removal Standard: Requires treatment to reduce the mean concentration of Total Suspended Solids (TSS).
- Runoff Reduction Standard: Requires infiltration, evaporation, or evapotranspiration of a specified percentage of the WQCV.

At a minimum, new and redevelopment sites are required to meet one of the base design standards. The user should refer to the current MS4 general permit prior to the implementation of stormwater control measures to ensure the proposed design will meet the current standard. A link to the current MS4 permit may be found on the CDPHE website or the City's Stormwater Utility webpage.

14.2.2 Non-Standard MS4 Permits

Certain public entities, such as the airport, school districts, and universities, require a non-standard MS4 permit for their stormwater discharges. Any non-standard MS4 permittee sharing a border with the City is required to have a Memorandum of Understanding (MOU) with the City. Facilities with a non-standard MS4 permit must coordinate with the Colorado Department of Public Health and Environment.

14.2.3 Areas Outside MS4 Permit

Development and redevelopment occurring in areas located outside the MS4 permit boundary are required to utilize runoff reduction practices as much as practicable. This includes disconnecting impervious areas and directing runoff to an RPA (Receiving Pervious Area).

14.3 Applicability

All development and redevelopment projects in the City must implement SCMs to enhance the quality of stormwater runoff. A description of permanent SCM requirements is provided in Table 14-1. For construction-phase stormwater quality measures, refer to Chapter 15, *Construction Site Stormwater Management and Erosion Control*.

Table 14-1. Permanent Stormwater Quality Control Measure Requirements

Project Conditions	Runoff Reduction ¹	Permanent Stormwater Quality Control Measure Requirements ²
Total Impervious Area < 5,000 sq. ft.	Encouraged, but not required	Encouraged, but not required.
Total Impervious Area ≥ 5,000 sq. ft. and Disturbance < 1 acre	Required	Minimize the amount of directly connected impervious area to the extent practicable. ³
Total Disturbance ≥ 1 acre	Required	Must satisfy one of the MS4 permit design standards (for the area of disturbance).

¹Runoff reduction through disconnection of impervious areas to receiving pervious areas is required for all projects to the maximum extent practicable. This must be done in a way that does not cause adverse impacts to adjacent structures or property.

²Detention requirements for flood control are addressed in Chapter 13, *Detention*.

³Directly connected impervious area is impervious area that drains to a storm drain system or stream without flowing over surfaces that would allow for infiltration. It is recognized that for redevelopment of infill sites, minimizing directly connected impervious area may not be practical in some cases.

If a proposed development or redevelopment is part of a larger common plan of development or sale, then requirements in Table 14-1 apply based on the size of disturbance of the larger common plan, as defined below. When post-construction SCMs are required, stormwater controls based on the WQCV must be sized to provide the WQCV for the entire upgradient watershed, assuming future developed conditions.

Definition of “Larger Common Plan of Development or Sale”

The Colorado Department of Public Health and Environment (CDPHE) Water Quality Control Division (Division) defines a “common plan of development or sale” as a part of the General Permit for Stormwater Discharges Associated with Construction Activities and in the General Phase II MS4 permit.

This term is defined as “a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules but remain related. The Division has determined that ‘contiguous’ means construction activities located in close proximity to each other (within ¼ mile).” Construction activities are considered to be “related” if they share the same development plan, builder or contractor, equipment, storage areas, etc.

14.4 Design Approach

Stormwater quality management in the City is based on the “Four-Step Process” to minimize the adverse impacts of urbanization on stormwater, as described in Volume 3 of the MHFD Manual and illustrated in Figure 14-1. The Four Step Process for effective stormwater management involves the following:

- 1) Runoff reduction
- 2) Treatment of the WQCV
- 3) Stream stabilization
- 4) Pollutant source controls

Additionally, the City encourages integration of water quality and flood control in Full Spectrum Detention facilities, as discussed in Chapter 13 *Detention*.

This chapter focuses on the first two steps of the Four-Step Process, specifically:

- 1) Runoff reduction (i.e., disconnection of impervious areas to drain to pervious areas).
- 2) Treatment of the WQCV.

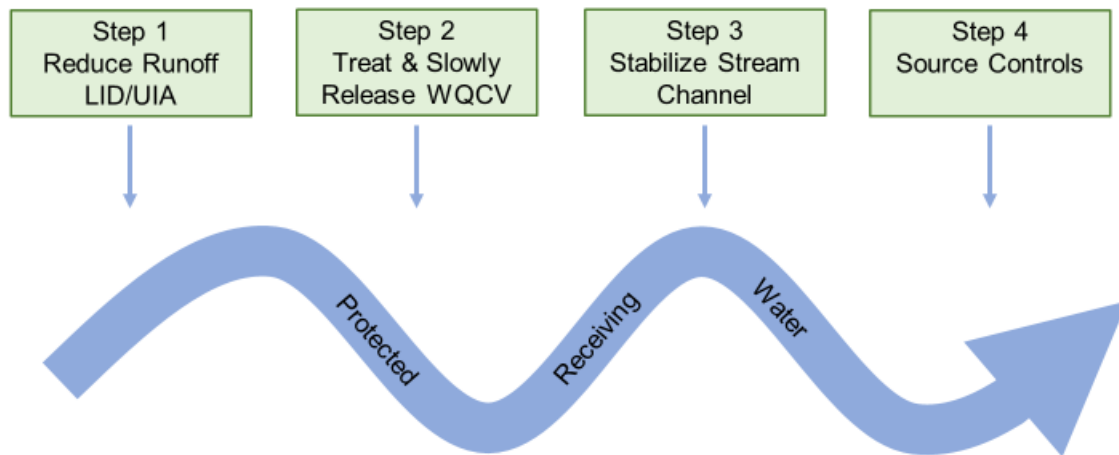


Figure 14-1. MHFD's Four-Step Process for Stormwater Quality Management

With respect to Step 1, runoff reduction, the City strongly encourages the use of practices that infiltrate runoff when soil properties, underlying groundwater conditions, and adjacent development characteristics are compatible with infiltration. In all cases, runoff reduction through disconnection of directly connected impervious area is required to the maximum extent practicable.

To successfully plan, design, and construct infiltration based SCMs, data related to soil characteristics, infiltration rates, depth to groundwater, and other related information are needed. The City incorporates the criteria in Chapter 4 of Volume 3 of the MHFD Manual for geotechnical investigations and data collection for infiltration-based stormwater control measures. See Section 14.4.3, below, for additional information on this subject.

To effectively implement runoff reduction practices on a site, it must be considered early in the land development planning process. On some small sites, it may be possible to achieve stormwater quality management requirements solely by draining disconnected impervious areas to receiving pervious areas to infiltrate the WQCV. On larger sites, though the implementation of runoff reduction practices may not fully satisfy the stormwater quality management requirements, the runoff reduction may be used to reduce the size of WQCV facilities.

The City adopts the MHFD's method for quantifying runoff reduction described in Volume 3 of the MHFD Manual. Volume 3 provides guidance on selecting permanent SCMs, considering factors such as watershed size, soils, depths to groundwater and bedrock, baseflows, watershed conditions, and targeted pollutants.

Conserving Existing Amenities

During the planning phase of development, identify portions of the site that provide stormwater quality benefits and therefore should be protected or improved. Such areas may include mature trees, stream corridors, wetlands, and Hydrologic Soil Group (HSG) A and B soils with higher infiltration rates. Natural areas to be preserved must be protected from compaction during the construction phase. Temporary construction fence can be an effective measure for this purpose. In areas where disturbance cannot practically be avoided, rototilling and soil amendments should be integrated to improve the infiltration capacity of areas that will be restored with vegetation.

14.4.1 Scale of Application

There are three general approaches for providing stormwater quality treatment in the City:

1. Onsite facilities – used to serve individual lots.
2. Sub-regional facilities – used to serve two or more lots with a total contributing drainage area of less than 130 acres.
3. Regional facilities – used to serve drainage areas between 130 acres up to one square mile and which may be applicable for larger development and redevelopment projects. (Note: regional facilities that provide stormwater quality treatment must comply with the regional detention facility requirements described in Chapter 13 *Detention*).

If sub-regional or regional facilities provide stormwater quality treatment, then the following conditions must be met consistent with the City's MS4 permit:

1. **Runoff Reduction Requirement:** Before discharging to a water of the state, at least 20% of the upstream impervious area of the applicable development site must be disconnected from the storm drainage system; the impervious area must drain through a receiving pervious area control measure comprising a footprint of at least 10% of the upstream disconnected impervious area of the applicable development site. The receiving pervious area must consist of some combination of landscaped buffers or swales. This criterion applies only to disconnection of small onsite impervious areas via drainage as sheet flow to pervious, vegetated areas—other sizing criteria may be more restrictive.
2. **Stream Stabilization:** All surface conveyances leading to the regional or sub-regional water quality facility must be fully stabilized. Any new or existing outfalls leading to a regional drainageway must be designed, constructed, and stabilized in accordance with MHFD criteria.

Waters of the State

The City's Phase II MS4 permit defines waters of the state as "any and all surface and subsurface waters which are contained in or flow in or through this state, but not including waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed. This definition can include water courses that are usually dry. For the purposes of this permit, waters of the state do not include subsurface waters."

The contributing drainage area is an important consideration both at the site scale and at the regional scale. At the site scale, there is a practical minimum size for certain SCMs, which is largely related to the ability to drain the WQCV over the required drain time. For example, in most situations, extended detention basins are not recommended for sites with less than 1 acre of imperviousness. While it is technically possible to size the WQCV for an extended detention basin for a half-acre site, designing a functional outlet to release the WQCV over a 40-hour drain time is very difficult due to the small orifices that would be required. For a half-acre watershed, a bioretention SCM is typically more appropriate.

At the other end of the spectrum, there must be a limit on the maximum drainage area for a regional facility to ensure adequate treatment of rainfall events that may produce runoff from only a portion of the area draining to the SCM. If the overall drainage area is too large, events that produce runoff from only a portion of the contributing area will pass through the outlet (sized for the full drainage area) without adequate residence time in the SCM. As a practical limit, the maximum drainage area contributing to a regional water quality facility should be no larger than one square mile.

14.4.2 Design Criteria

Design of SCMs in the City must follow the procedures in Volume 3 of the MHFD Manual. All the types of SCMs included in Volume 3 are applicable in the City. The City will consider other types of SCMs, not included in Volume 3, on a case-by-case basis.

14.4.3 Additional Requirements for Infiltration-Based Practices

Soils with good permeability, typically associated with HSGs A and B, provide opportunities for infiltration of runoff and are well-suited to infiltration-based SCMs such as bioretention, permeable pavement systems, sand filters, grass swales, and grass buffers, often without the need for an underdrain system. Even when soil permeability is low (e.g., HSG C), these types of SCMs may be feasible if soils are amended to increase permeability or if an underdrain system is used. In some cases, however, soils restrict the use of infiltration-based SCMs. When soils with moderate to high swell potential are present, infiltration should be avoided to minimize damage to adjacent structures due to water-induced swelling. In some cases, these SCMs can still be used if an impermeable liner and underdrain system are included in the design.

Infiltration-based practices are generally not appropriate for sub-regional or regional water quality facilities, due to the large area and shallow depth requirements for infiltration-based SCMs that should be strictly adhered to in all cases. If sub-regional or regional infiltration practices can meet these design requirements, additional pre-treatment must be provided to reduce sediment loading, which will otherwise reduce the effectiveness of the SCM over time due to clogging.

Infiltration-based practices are also not appropriate for sites where the potential for groundwater or soil contamination may exist or is known to exist unless a no-infiltration configuration is utilized. It is incumbent upon the designer to ensure that the selected SCM does not result in additional contamination or the spread of existing contamination if a partial- or full-infiltration configuration is used. Potential resources for identifying known or suspected contamination are provided in Table 3-3 in Chapter 3, *Submittals*. Figure 14-2, below, provides a flow chart for determining how to address areas of known contamination in post-construction stormwater control design.

In all cases, consultation with a geotechnical engineer is necessary for evaluating the suitability of soils for various infiltration-based SCMs and establishing minimum distances between infiltration SCMs and structures. As stated in the Submittals chapter, provide infiltration test results, and reference or append any geotechnical studies performed. See Chapter 4 of Volume 3 of the MHFD Manual for data collection and testing requirements for infiltration-based SCMs. Typical evaluations include evaluating Natural Resource Conservation Service (NRCS) mapping and soil properties, geotechnical investigations including boring on site and soil sampling and laboratory analysis to characterize soil properties, and in situ testing of infiltration rates of the soils beneath a proposed control measure using a double-ring infiltrometer (American Society for Testing and Materials [ASTM] D 3385) or other comparable methods identified in Volume 3 of the MHFD Manual.

14.4.4 Safety

SCMs must be designed and maintained in a manner that protects the safety of both the public and maintenance personnel. Refer to Volume 3 of the MHFD Manual for safety requirements and considerations.

14.4.5 Aesthetics

SCMs should be designed to be aesthetically compatible with surrounding land use. Consultation with a landscape architect is recommended. Volume 3 of the MHFD Manual provides recommendations for aesthetically pleasing designs that complement, rather than detract from, the development.

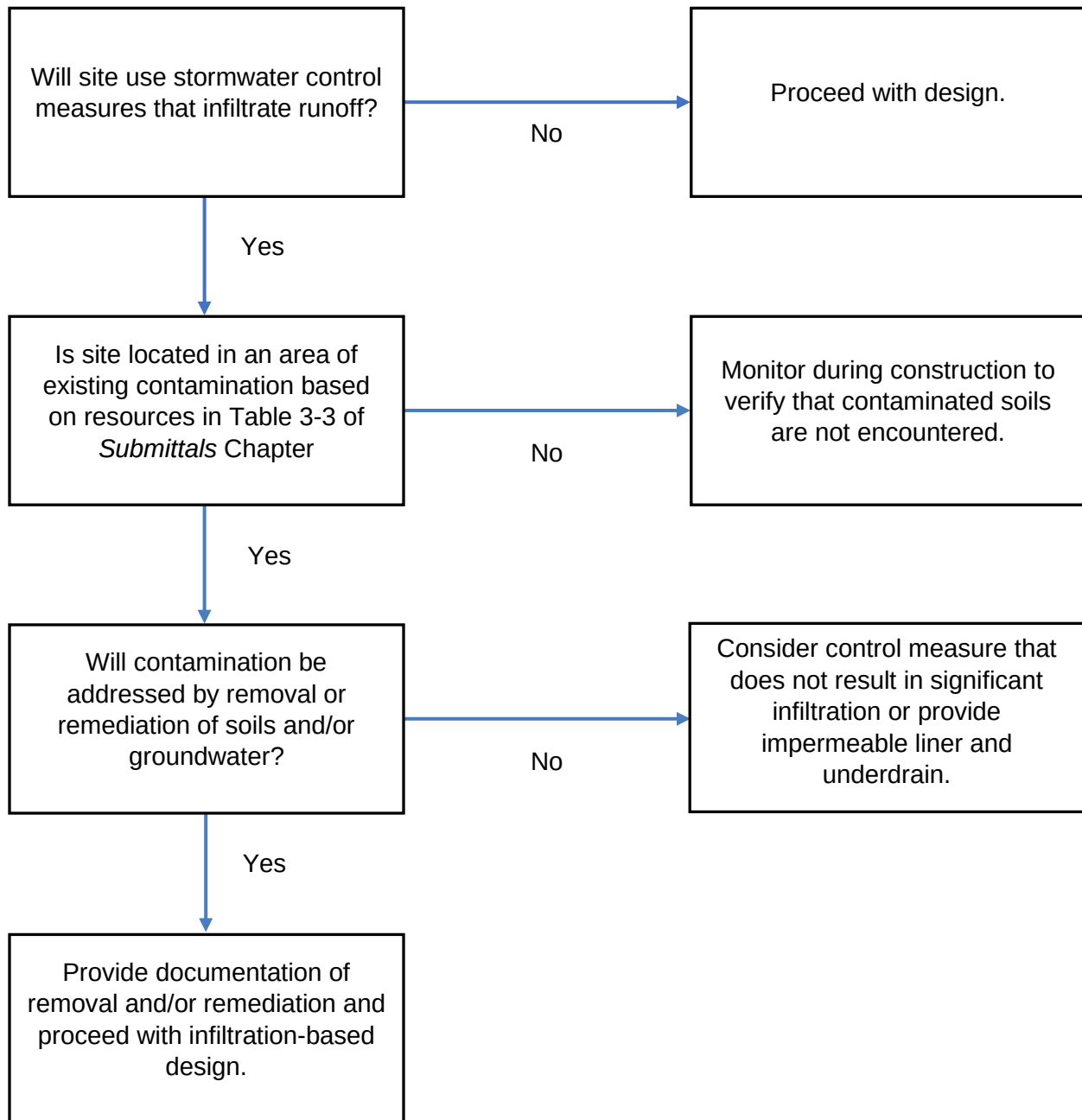


Figure 14-2. Flow Chart for Sites with Potential Contamination

14.4.6 Maintenance and Easements

The City requires a Stormwater Facility Maintenance Agreement (SFMA) for all water quality facilities to ensure proper maintenance of control measures is being performed. All SCMs must be designed with adequate maintenance and access provisions and in a manner that facilitates maintenance. The City requires that an Operation and Maintenance (O&M) Manual and SFMA be completed for all permanent SCMs. A copy of the O&M Manual and SFMA are to be provided to both the City and to the owner of the facility or facilities to which they apply. The most up to date forms can be found on

the City's Stormwater Utility webpage, along with guidance documents for the preparation of an O&M Manual and SFMA. All drainage reports which include water quality facility designs must include a Maintenance and Inspection report form to be used by the owner in performing scheduled and post-storm maintenance and inspections. Maintenance and Inspection checklists for each water quality facility may be accessed on the Stormwater Utility webpage. Maintenance is the responsibility of the property owner, unless otherwise specified by the Stormwater Director.

Easements are required around all water quality facilities by the City's MS4 permit to ensure adequate long-term operation and maintenance and must be executed with form DPW 110, which can be found on the City's Stormwater Utility webpage. The City requires that easements be wide enough to contain storage, associated facilities, and a 12-foot-wide maintenance access road around the perimeter and to the nearest public right-of-way. Acceptable alternatives will be considered if adequate facility maintenance can be provided. Subdivision easements can be shown on the plat, in which case a DPW 110 will not be needed. However, an SFMA is still required.

If the owner fails to maintain the control measures, the SFMA gives the City the right to access the drainage easement via public ROW, abutting private roadway, and/or private driveway to perform the needed maintenance. In special cases, the City will agree to take over maintenance, in which case, 12 ft wide vehicular maintenance access must be provided as follows: 1) from public ROW or public property to the detention facility, 2) around the perimeter of detention facility, and 3) to the bottom of the detention facility.

14.5 Water Rights Requirements for Stormwater Facilities

CRS §37-92-602 (8) provides water rights-related legal protection for any regional or individual site stormwater detention and infiltration facility in Colorado, provided the facility meets the following criteria:

1. It is owned or operated by a governmental entity or is subject to oversight by a governmental entity (e.g., required under an MS4 permit).
2. It continuously releases or infiltrates at least 97% of all the runoff from a rainfall event that is less than or equal to a 5-year storm within 72 hours after the end of the event.
3. It continuously releases or infiltrates as quickly as practicable, but in all cases releases or infiltrates at least 99% of the runoff within 120 hours after the end of events greater than a 5-year storm.
4. It operates passively and does not subject the stormwater runoff to any active treatment process (e.g., coagulation, flocculation, disinfection, etc.).
5. If it is in the Fountain Creek (tributary to the Arkansas River) watershed it must be required by or operated in compliance with an MS4 permit.

This statute specifies that runoff treated in stormwater detention and infiltration facilities must not be used for any other purpose by the owner/operator/overseer (or that entity's designees), must not be released for subsequent diversion or storage by the owner/operator/overseer (or that entity's designees) and must not be the basis for a water right or credit (MHFD, 2016).

Under this statute, new stormwater detention and infiltration facilities must complete certain reporting requirements facilitated by an on-line mapping system for Stormwater Detention and Infiltration Facility Notification, which may be accessed from the City's Stormwater Utility webpage. This information must be filed prior to operation of the facility and include the following:

1. Location.
2. Approximate surface area at the design volume.
3. Data that demonstrate the facility has been designed to comply with the release rate requirements described above. The Stormwater Detention and Infiltration Design Data (SDI) Worksheet (downloadable from the MHFD website as the *Compliance Design Data Workbook*), or acceptable alternative calculations for upload to the State Compliance Portal, demonstrating compliance with state law regarding maximum detention drain times must be submitted to the state. While much of the information in this workbook overlaps with the *Pueblo-Detention* workbook, the SDI Worksheet is in the correct format for the State Engineer's Office portal and its use is recommended for the purpose of demonstrating compliance with state law. *Pueblo-Detention* should still be used for other computations.

Not all stormwater facilities are required to complete filing requirements, and certain types of facilities are not protected under this statute, as summarized in Table 14-2.

Table 14-2. Stormwater Facility Reporting Requirements under Senate Bill 15-212 (MHFD 2016)

SCM Type	Water Quality Only	Flood Control Included
Grass Buffers	Not Required	Not Required
Grass Swales	Not Required	Not Required
Bioretention (with or without underdrain)	Not Required	Required
Green Roof	Not Required	N/A
Extended Detention Basin	Required	Required
Sand Filter	Not Required	Required
Permeable Pavement Systems	Not Required	Required
Media Filter Drain	Not Required	Not Required
Underground Detention Vaults	Required	Required
Constructed Wetland Pond	N/A, Subject to Water Rights	
Retention Pond	N/A, Subject to Water Rights	

Neither retention facilities nor constructed wetlands are protected under CRS §37-92-602 (8). These facilities expressly require a water right. Temporary construction and sedimentation basins should not be uploaded to the online portal unless they will be used as permanent detention basins. In such cases, the final detention configuration should be completed before uploading the record.

This page intentionally left blank.

Chapter 15.0 Construction Site Stormwater Management and Erosion Control

15.1 Introduction

The City of Pueblo (City) manages and implements a program to reduce or prevent the discharge of pollutants from construction activities to the storm drain system, receiving waters, and wetlands. The City's program complies with its Colorado Discharge Permit System (CDPS) Municipal Separate Storm Sewer System (MS4) permit requirements and the City of Pueblo Municipal Code.

This chapter identifies the triggers for an Erosion and Sediment Control Plan (ESCP) or Stormwater Management Plan (SWMP) and describes the minimum technical criteria for stormwater management and Stormwater Control Measures (SCMs), also referred to as Best Management Practices (BMPs), to control erosion and sediment transport at construction sites. This chapter incorporates by reference Chapter 7, *Construction Best Managements Practices* (BMPs), in Volume 3 of the Urban Storm Drainage Criteria Manual (MHFD Manual) pertaining to the design and implementation of construction related SCMs.

Construction Site Stormwater Management Principles

1. Implement erosion and sediment control measures to reduce soil loss from all construction sites to the maximum extent practicable.
2. Manage construction sites to prevent discharges of chemicals, construction wastes, and other pollutants from construction sites.
3. Prevent damage to properties adjacent to construction sites arising from sediment, debris, chemical wastes, or other pollutants.
4. Protect waters of the state and wetlands from damage caused by erosion, sedimentation, chemical wastes, or other pollutants arising from construction activity.

15.2 City of Pueblo's Construction Site Stormwater Management Policies

The City's construction site stormwater management policies include the following:

1. All construction activities² disturbing at least 1,000 square feet are required to address erosion, sediment, and potential chemical water quality issues by

² The City's MS4 permit defines construction activities as "ground surface disturbing and associated activities (land disturbance), which include, but are not limited to, clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas."

submitting an ESCP or SWMP to the City and the Stormwater Utility Division for review, unless proven to be exempt under *Exclusions* in the City's MS4 permit. If an exemption is to be made, a letter must be submitted stating which applicable exclusion the construction activity falls under. Construction activities with one acre or more of land disturbance are required to obtain coverage under the CDPS General Permit for Stormwater Discharges Associated with Construction Activities, COR400000. Submittal of a SWMP must be included in the application for coverage and must also be submitted to the City's Stormwater Utility for review. Instructions for completing an ESCP or SWMP may be found on the City's Stormwater Utility webpage. Instructions for SWMPs can also be found on the CDPHE website, and developers should refer to the current COR400000 permit to ensure state requirements are met. Additional guidance for best management practices for construction site stormwater management can be found in the *Construction BMPs* chapter of Volume 3 of the MHFD Manual.

2. All construction projects are subject to implementing SCMs at construction sites. Inspections and escalating enforcement actions by the Stormwater Utility may occur from the beginning of site demolition or site grading until the site has achieved final stabilization and any required permits are closed. The City may initiate enforcement under its illicit discharge program if necessary.
3. Structural and non-structural SCMs must be implemented in accordance with this chapter and the technical criteria in Volume 3 of the MHFD Manual. Additional or alternative practices may be approved by the Stormwater Director on a case-by-case basis. Factors such as project type, size, duration, soil type, site slope, and proximity to waters of the state³ must be considered when selecting SCMs. Guidance for selection of SCMs for construction sites can be obtained from Volume 3 of the MHFD Manual.

15.3 Construction Activity Requirements

15.3.1 Plan Triggers

For all construction activities disturbing at least 1,000 square feet, the City requires the submittal of an Erosion and Sediment Control Plan (ESCP) or Stormwater Management Plan (SWMP) depending on the area of land disturbance (Table 15-1). As a requirement for coverage under the state's Stormwater Construction Permit, the SWMP must also be submitted to the state. It is the developer's responsibility to submit the SWMP to both the City and the state. Guidance documents for the preparation of each plan are available on the City's Stormwater Utility webpage. The State's current Stormwater

³The City's Phase II MS4 Permit defines waters of the state as "any and all surface and subsurface waters which are contained in or flow in or through this state, but not including waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed. This definition can include water courses that are usually dry. For the purposes of this permit, waters of the state do not include subsurface waters."

Construction Permit requirements should be referenced on the CDPHE website in preparation of the SWMP to ensure all current requirements are met.

15.3.1.1 Erosion and Sediment Control Plan (ESCP) Triggers

This section outlines the conditions under which an ESCP is required to be completed and submitted to the City.

1. The construction site results in land disturbance of at least 1,000 square feet, but less than 1 acre.
2. The construction site is under 1,000 square feet but meets one of the following conditions:
 - a. The project site has been identified by the City as having a significant potential for erosion, based on site characteristics including but not limited to topography, soil type, or vegetation types (or lack thereof).
 - b. The project site is known to contain contaminated soils on site or has a pre-existing condition warranting special care during construction.
 - c. The project site discharges runoff directly into waters of the state.

15.3.1.2 Stormwater Management Plan (SWMP) Triggers

This section outlines the conditions under which a SWMP is required to be completed and submitted to the City.

1. Construction activities that result in land disturbance of 1 acre or greater or are part of a larger common plan of development⁴ disturbing 1 acre or greater.

⁴ "Common Plan of Development or Sale" means a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules but remain related. "Contiguous" means construction activities located in close proximity to each other (within ¼ mile). Construction activities are considered to be "related" if they share the same development plan, builder or contractor, equipment, storage areas, etc.

Table 15-1. Requirements for Erosion and Sediment Control for Construction Activities

Project Conditions	Erosion Sediment Control	Erosion Sediment Control Measure Requirements
Total Disturbance < 1000 square feet	Not required	SCMs should be implemented as needed to prevent illicit discharges
Total Disturbance > 1,000 square feet and < 1 acre	Required	Erosion Sediment Control Plan (ESCP)
Total Disturbance ≥ 1 acre	Required	Stormwater Management Plan (SWMP)

15.3.2 Requirements for Construction Site Stormwater Control Measures

All construction sites must implement SCMs to minimize the discharge of pollutants from all potential pollutant sources during all phases of construction at the site. No clearing, grading, excavation, filling, or other land disturbing activities shall be permitted until the City approves the ESCP or SWMP. After the plan is approved, SCMs must be installed prior to commencement of activities that may contribute pollutants to stormwater discharges and must remain in place, as necessary, to control potential pollutants until final stabilization is achieved.

These conservation measures shall apply to all on-site features, as well as to the protection of individual lots. During all phases of construction, it shall be the responsibility of those who initiate such land disturbing activities to maintain all erosion control features in a functional manner. SCMs must be selected, designed, installed, and maintained in accordance with good engineering, hydrologic, and pollution control practices. SCMs implemented at the site must be designed to prevent pollution or degradation of waters of the state. The developer must implement structural and/or nonstructural SCMs that effectively minimize erosion, sediment transport, and the release of other pollutants related to construction activity.

15.3.2.1 Erosion and Sediment Control

SCMs for erosion and sediment control may involve a variety of options, which include but are not limited to the following: wattles/sediment control logs, silt fences, earthen dikes, drainage swales, sediment traps, temporary slope drains, inlet protection, outlet protection, gabions, sediment basins, temporary revegetation, permanent revegetation, mulching, geotextiles, sod stabilization, surface roughening, maintaining existing vegetation, protection of trees, and preservation of mature vegetation. Design criteria for these and other practices are described in Volume 3 of the MHFD Manual. The following minimum erosion and sediment control measures are required:

1. **Vehicle tracking controls:** Vehicle tracking controls must be implemented to minimize vehicle tracking of sediment from disturbed areas to paved surfaces.
2. **Street sweeping:** Paved surfaces adjacent to construction sites with the potential to convey flows offsite or into the MS4 must be swept by the close of each business day (and during the day as needed) when sediment and other materials are tracked or discharged onto them. Sweeping by hand or mechanical street sweepers is acceptable. Mechanical street sweepers using water while sweeping may be required to minimize dust. Washing off paved surfaces with water which is discharged into storm sewer inlets is prohibited.
3. **Sediment controls:** Stormwater runoff from all disturbed areas and soil storage areas for which permanent or temporary stabilization is not implemented must flow to at least one SCM to minimize sediment in the discharge. This may be accomplished through filtering, settling, or straining. The SCM(s) must be selected, designed, installed, and adequately sized in accordance with good engineering, hydrologic, and pollution control practices. The SCM(s) must contain or filter flows to prevent the bypass of flows without treatment and must be appropriate for stormwater runoff from disturbed areas and for the expected flow rate, duration, and flow conditions (i.e., sheet or concentrated flow).



Photo 15-1. Examples of sediment control and inlet protection during construction activities

4. **Inlet protection:** Inlet protection must be implemented on all existing or proposed storm drain inlets in the vicinity of the project site that may receive site runoff. The type of inlet protection must be appropriate to the type of storm inlet (on grade, sump, grate, etc.) and the ground surface at the inlet (paved or pervious, such as a grass swale).
5. **Perimeter Controls:** Perimeter control measures must be installed along the

edge of the construction site to filter and control surface runoff leaving the site. Design of perimeter controls must consider the area of disturbance draining to the SCM, the ground conditions (paved or pervious), and other site-specific factors. Where in close proximity to receiving waters, redundant perimeter controls are advised because of the consequences of failure. Maintenance and repair of perimeter controls must occur as needed and as soon as practicable following discovery of the need for maintenance or repair.

6. **Sedimentation Basin Outlets:** Sedimentation basin outlets must withdraw water from or near the water surface of the basin, unless infeasible. If this cannot be accomplished, it is incumbent on the applicant to demonstrate why drawing water from the surface or near the surface is not feasible.
7. **Vegetative Buffers:** Pre-existing vegetation or equivalent SCMs must be maintained for areas within 50 horizontal feet of receiving waters, unless infeasible.
8. **Soil compaction:** Soil compaction must be minimized for areas where future permanent infiltration control measures are planned or where final stabilization will be achieved through vegetative cover. Where soil compaction cannot be avoided in these areas, decompaction may be required before final stabilization of the area.
9. **Topsoil Preservation:** Unless infeasible (or inappropriate due to contamination or poor quality), topsoil must be preserved for those areas of a site that will utilize vegetative final stabilization.⁵ If topsoil cannot be stored and re-applied, import of topsoil or amendment of onsite soils may be required.
10. **Stockpiled soil and materials:** The following SCMs are required for stockpiles of soil, land clearing debris, or construction materials containing soil or sediment:
 - a. Locate stockpiles outside of any natural buffers and away from waterways and onsite drainage pathways.
 - b. Protect stockpiles located within 100 feet of perimeter controls, inlets, or stormwater conveyances with additional controls. Examples of acceptable controls include compacted dirt berms, silt fence, and/or sediment control logs.
 - c. Where practicable, provide cover or appropriate temporary stabilization to avoid direct contact of precipitation with the stockpile and to minimize the potential for sediment discharge.

⁵ See *Topsoil Management Guidance* accessible at mhfd.org for additional information on topsoil management.

11. Soil Exposure: Minimize the amount of soil exposed and duration of exposure during construction activities, including the disturbance of steep slopes, through phasing and temporary stabilization practices.

15.3.2.2 Other Common Pollutants

In addition to erosion and sediment control, the City requires control measures for other common pollutants, including:

1. **Petroleum products and other chemicals:** Bulk storage of 55 gallons or more of petroleum products and other liquid chemicals must have secondary containment or equivalent protection measures to contain spills and prevent spilled material from entering waters of the state.
2. **Concrete washout:** Discharges of concrete washout waste to the ground are allowed, provided that such discharges do not leave the site as surface runoff. A containment area must be designated for the washout of cement truck delivery chutes and masonry operations contained on site. This containment area must be designed so that all wash water is totally contained. Water discharged into the containment area is allowed to infiltrate, evaporate, or may be removed from the site to an appropriate facility for disposal. The permittee must ensure the washing activities do not contribute pollutants to stormwater runoff or receiving waters. Discharges that may reach groundwater must flow through soil that has buffering capacity prior to reaching groundwater. The concrete washout location must not be located in an area where shallow groundwater may be present and would result in buffering capacity not being adequate, such as near natural drainages, springs, or wetlands. Concrete washouts should be at least 5 feet above the seasonal high groundwater table on the site. Dried concrete waste must be removed and properly disposed. If site conditions do not allow for discharge of concrete washout water to the ground, then containment for the concrete washout water must be used.

15.3.2.3 Stabilization Requirements

The following temporary and permanent site stabilization requirements must be implemented for each site:

1. Temporary stabilization must be implemented for earth disturbing activities on any portion of the site where ground disturbing construction activity has permanently ceased, or temporarily ceased for more than 14 calendar days. Temporary stabilization methods may include, but are not limited to, surface roughening, tarps, soil tackifier, and hydroseeding. The permittee may exceed the 14-day schedule when either the function of the specific area of the site requires it to remain disturbed, or physical characteristics of the terrain and the climate prevent stabilization. The ESCP or SWMP must document the constraints necessitating the alternative schedule, provide the alternate

stabilization schedule, and identify on the site map all locations where the alternative schedule is applicable.

2. Final stabilization must be implemented for all construction sites. Final stabilization is reached when all ground surface disturbing activities at the construction site are complete and either a uniform vegetative cover with an individual plant density of at least 70% of pre-disturbance levels is established, or equivalent permanent alternative stabilization methods are implemented. Vegetative cover provided by noxious weeds or other invasive plants does not satisfy final stabilization requirements, and if this occurs, weed management will be required until the type of vegetation called for in the ESCP or SWMP is established at the required density. The City may approve alternative final stabilization criteria for specific operations or projects.
3. Final stabilization must be designed and installed as a permanent condition. Final stabilization plans for obtaining vegetative cover or alternative stabilization methods must include the following at a minimum:
 - a. Seed mix selection and application methods. The Pueblo County Colorado State University (CSU) Extension office serves as a resource for native planting guides.
 - b. Soil preparation and amendments.
 - c. Soil stabilization methods (e.g., crimped straw, hydromulch, or rolled erosion control products).
 - d. Appropriate sediment control measures as needed until final stabilization is achieved.
 - e. Permanent pavement, hardscape, xeriscape, and stabilized driving surfaces.
 - f. Other alternative stabilization practices as applicable.
4. All temporary SCMs must be removed from the construction site once final stabilization is achieved, unless otherwise approved by the City.

15.3.2.4 Site Specific Requirements

In addition to the minimum requirements identified above, the City requires additional SCMs on sites meeting the following conditions:

1. **Potential for High Flow Conditions:** Sites that are located directly adjacent to waters of the state or that have areas tributary to the site that may generate large volumes of runoff must be protected by SCMs that provide flow control and diversion. Acceptable SCMs include slope drains, temporary swales and channels, diversion dikes, coffer dams, sandbag barriers, and other comparable practices.

2. **Steep Slopes:** Sites that have slopes 3:1 (horizontal:vertical) or steeper must implement SCMs to prevent or minimize slope erosion. The use of one or more of the following SCMs or approved SCMs providing equivalent protection is required:
 - a. **Geotextiles and Matting:** Fabric, jute matting, and other materials that provide a surface cover on slopes to minimize erosion from raindrop impact or sheet flow runoff. Geotextiles and matting must be properly installed and secured to the surface.
 - b. **Slope Roughening/Terracing:** Slope roughening is similar to the agricultural erosion measure known as contour plowing where furrows are plowed along elevation contours. Care must be taken to prevent pedestrian or vehicular traffic across areas where this is used because even minimal traffic can destroy the SCM's effectiveness.
3. **On-site Drainageways:** Sites that are adjacent to drainageways, have a drainageway within the site, or are constructing a drainageway within the site must provide SCMs in accordance with the criteria in the MHFD Manual for construction in waterways. Examples of SCMs in waterways include, but are not limited to:
 - a. **Instream Velocity Reduction/Sediment Entrapment SCMs:** Check dams, sediment traps, or similar measures to reduce the velocity of flow and entrap sediment are required. Waters of the state must not be used as sediment collection facilities. SCMs must be used to control sediment from entering these areas.
 - b. **Temporary Stream Crossings:** A temporary stream crossing is required where repeated crossing of a drainageway by construction equipment may be necessary. Temporary stream crossings must be limited to one per 2,000 linear feet of drainageway unless approved by the City.
 - c. **Minimizing Disturbance to Existing Drainageways:** It is critical that construction disturbance within drainageways be minimized. Where construction within a drainageway is unavoidable, the applicant must delineate construction limits that restrict activities to the smallest area possible. Construction fence or other means of delineation must be indicated on the erosion and sediment control plans within the drainageway corridor to indicate the allowable limits of disturbance. Perimeter controls must be provided between any areas of disturbance and waterways.
 - d. **Stabilizing Disturbances to Existing Drainageways:** Stabilization must be implemented as quickly as possible upon completion of earth-disturbing activities within the drainageway. All disturbed areas within drainageways must be revegetated with topsoil (at least 6 inches in depth), seeded and

- mulched, and unless otherwise approved, protected with a rolled erosion control product (RECP) sized in accordance with criteria from the MHFD Manual. Additional plantings, such as willows or other riparian species should be considered to enhance channel stability, habitat, and aesthetics. Erosion control blankets are required for the disturbed channel bed and banks, and all slopes steeper than 4:1.
- e. **Permitting and Water Control Plan:** Work adjacent to or within drainageways is often subject to floodplain permitting by the City, short-term groundwater dewatering permitting by the CDPHE Water Quality Control Division, and/or Clean Water Act Section 404 permitting by the U.S. Army Corps of Engineers. In cases where a development construction project includes stream or conveyance channel crossings or improvements within active flowing water, the ESCP or SWMP must include the preparation of a Water Control Plan to identify the phasing of work necessary to meet controls required to meet federal, state, and/or local regulations related to work in waters of the state. The applicant must consult with the City on requirements for a Water Control Plan based on site-specific conditions and anticipated hydrology.
4. **Contaminated Site:** The ESCP or SWMP for sites where there is known contamination by solid waste or toxic, radioactive, or other hazardous material must implement any additional requirements identified in other applicable plans for the City or CDPHE.
5. **Sensitive Areas:** In addition to protecting drainageways, other sensitive areas may exist on construction sites. These could include:
- a. Protected habitat for threatened or endangered species.
 - b. Wetlands.
 - c. Nesting bird habitat.
 - d. Riparian corridors.
 - e. Mature cottonwood stands.
 - f. Steep slopes.
 - g. Potential stormwater infiltration areas.
 - h. Historic, cultural, or archeological resources.
 - i. Areas of unique or pristine vegetation, habitat, or landform.

A resource inventory should be conducted for the site, including any sensitive areas such as those listed above. The location, spatial extent, and type of resource, including stream floodplains, must be shown on the erosion and sediment control plans. Disturbance to sensitive resource areas must be avoided

or minimized. Destroying or disturbing wetlands, nesting bird habitat, and protected habitat for threatened or endangered species is restricted; these restrictions must be addressed through the appropriate federal or state agency permitting processes.

An applicant can achieve many of the objectives of preserving critical resource areas by leaving open space areas undisturbed and excluded from clearing and grading operations. The technique of mapping areas of the site that can be left undisturbed, termed “fingerprinting,” can reduce grading costs and contribute to the ultimate value of the development. The ESCP or SWMP must clearly show limits of construction and must call out construction fence or other means to protect resources that are to be preserved.

Information regarding acceptable SCMs and proper installation can be found in Volume 3 of the MHFD Manual, the CDOT *Erosion Control & Stormwater Quality Guide*, and any City of Pueblo approved details on the Stormwater Utility webpage.

15.3.3 Maintenance and Corrective Actions

The developer must ensure that all SCMs remain in effective operating condition and are protected from activities that would reduce their effectiveness. SCMs must be maintained in accordance with good engineering, hydrologic, and pollution control practices. Observations leading to the required maintenance of control measures can be made during a site inspection or during general observations of site conditions. The necessary repairs or modifications to an SCM requiring routine maintenance must be conducted to maintain the SCM in an effective operating condition.

The developer must assess the adequacy of SCMs at the site and the need for changes to those SCMs necessary to ensure continued, effective performance. When an inadequate SCM is identified and a new or replacement SCM becomes necessary, then corrective actions must be implemented and documented in the ESCP or SWMP.

15.4 Erosion and Sediment Control Plan (ESCP) Requirements

The City requires an Erosion and Sediment Control Plan (ESCP) be developed for all construction sites disturbing at least 1,000 square feet but less than 1 acre. Guidance for the development of the ESCP can be found in Appendix C and on the City’s Stormwater Utility webpage. The ESCP must be submitted to the City prior to commencement of land disturbing activities. Once the submitted ESCP is accepted by the Stormwater Utility, it becomes an enforceable part of the Construction Permit. The ESCP

Construction sites greater than 1,000 square feet and less than 1 acre are required to submit an **Erosion and Sediment Control Plan (ESCP)**.

Construction sites 1 acre or more, or less than 1 acre and part of a larger common plan of development 1 acre or more, are required to submit a **Stormwater Management Plan (SWMP)** to the City and obtain a Construction Stormwater Discharge Permit from CDPHE.

must be implemented as written and updated during the project, from commencement of construction activity until final stabilization is complete.

A copy of the ESCP must be kept onsite, either physically or electronically, when construction activities are occurring at the site unless the permittee specifies another location and obtains prior approval from the City.

15.5 Stormwater Management Plan (SWMP) Requirements

Each construction site with an area of disturbance of 1 acre or more and/or which is part of a larger common plan of development that disturbs 1 acre or more requires the development of a SWMP in accordance with good engineering, hydrologic, and pollution control practices. Guidance for the development of the SWMP may be found in Appendix D, on the City's Stormwater Utility webpage, or the CDPHE website under the Construction Stormwater Discharge permit, COR400000. The SWMP must be submitted to the Stormwater Utility Division prior to beginning construction activities. The Stormwater Utility will evaluate whether the SWMP meets the requirements of the City's MS4 permit and this chapter. **Acceptance by the City does not imply the SWMP has met all the State's Construction Stormwater Permit application requirements, and the developer is responsible for submitting the SWMP to the State as well as the City.** Once the submitted SWMP is accepted by the Stormwater Utility, it becomes an enforceable part of the Construction Permit. The SWMP must be implemented as written and updated during the project, from commencement of construction activity until final stabilization is complete.

A copy of the SWMP must be kept onsite, either physically or electronically, when construction activities are occurring at the site unless the permittee specifies another location and obtains prior approval from the City.

15.6 Responsibilities of Permittee

15.6.1 Maintain Erosion and Sediment Control Plan or Stormwater Management Plan Onsite

Permittees must keep an electronic or hard copy of the ESCP or SWMP on site at all times. The ESCP or SWMP kept on the site should be the originally approved document and attachments or appendices with all revisions noted to match existing site conditions.

15.6.2 Erosion and Sediment Control Plan or Stormwater Management Plan Modifications and Permit Amendments

Permittees are required to amend, adapt, and adjust their ESCP or SWMP to accurately reflect phased construction changes and current conditions at the site. Permittees must keep a record of ESCP or SWMP changes made that includes the date and identification of the changes. The ESCP or SWMP must be modified when any of the following occur:

1. A change in design, construction, operation, or maintenance of the site requiring

implementation of new or revised control measures.

2. The ESCP or SWMP proves ineffective in controlling pollutants in stormwater runoff in compliance with the permit conditions.
3. SCMs identified in the ESCP or SWMP are no longer necessary and are removed.
4. Corrective actions are taken onsite that result in a change to the ESCP or SWMP.

A notation must be included in the ESCP or SWMP that identifies the date of the site change, the SCM(s) removed or modified, the location(s) of those SCM(s), and any changes to the SCM(s). The permittee must ensure the site changes are reflected in the ESCP or SWMP.

ESCP or SWMP modifications are categorized as major or minor modifications that have differing approval requirements:

1. **Major Modifications:** Major modifications are changes to the ESCP or SWMP that remove or add area to the project, modify the final hydrology or drainage of the final design, replace the approved ESCP or SWMP, or otherwise expand or contract the scope of the approved project. Major modifications to the ESCP or SWMP proposed by the contractor/owner must be in writing (including revised plans) and submitted to the Stormwater Utility at least 10 business days prior to the desired date of implementation. The Stormwater Utility will re-approve the ESCP or SWMP if the proposed modifications are acceptable.
2. **Minor Modifications:** Minor modifications are changes to the ESCP or SWMP that do not increase the scope or change the hydrology of the project but modify or improve specific SCMs in use at the site, indicate progression in phasing of the project, or specify relocation of previously approved SCMs within the project. Minor modifications can be made in the field by the permittee if the permittee can demonstrate that the modified SCMs are equivalent to, or better than, the originally approved SCMs. Minor modifications must be thoroughly documented in the permittee's ESCP or SWMP narrative, drawings, and specifications. If the City's Stormwater Inspector deems the minor field modification inadequate, the permittee must make specific modifications as directed. Minor modifications are expected and encouraged as part of standard practice for ongoing compliance with requirements for maintenance and operation of SCMs and ESCP or SWMP implementation corresponding with evolving site conditions.

15.6.3 Inspections

Construction site stormwater inspections include several different types of inspections by the City's Stormwater Inspector and mandatory Self-Monitoring Inspections by the

permittee. Additional inspections by other regulatory authorities may also be conducted. Inspection requirements and responses include the following:

1. Permittees must contact the City Stormwater Utility, no less than three business days in advance of any site demolition, clearing, grubbing, grading, or excavation activity in order to schedule the preconstruction meeting and initial site inspection. The permittee must not commence any such activity until the site passes the initial inspection by the City Stormwater Utility.
2. Permittees must ensure Self-Monitoring Inspections of the SCMs occur at least once every 14 days and after every significant precipitation event or significant snow melt until such time as permanent non-erosive conditions are established or active disturbance at site is mitigated to the extent that the City Stormwater Utility approves a modified/extended inspection schedule. Reduced inspection frequencies may be approved if conditions specified for reduced inspection frequency in the CDPHE Construction Stormwater Discharge General Permit are met. Inspections must be conducted by a qualified stormwater professional.
3. The City Stormwater Inspector will perform routine inspections at least once every 45 days beginning after the initial inspection and ending once the Final Inspection has been completed. The purpose of routine inspections is to evaluate all pollutant sources, evaluate discharge points to the MS4 or beyond the limits of the construction site to determine whether an illicit discharge has occurred, and to identify failure to implement control measures, inadequate control measures, and control measures requiring routine maintenance.
4. If the permittee's Self-Monitoring Inspections or an inspection by the City Stormwater Utility finds that SCMs in the initially approved ESCP or SWMP are not functioning as intended, the permittee must begin implementing additional or revised SCMs or other corrective actions immediately. Changes must be documented in the ESCP or SWMP, with major modifications approved by the City Stormwater Utility.
5. The permittee must keep a record of all inspections, which must be kept with the ESCP or SWMP and made available to the City upon request. Uncontrolled releases of sediment or polluted stormwater or measurable quantities of sediment found off-site must be recorded with a brief explanation describing the measures taken to prevent future releases as well as any measures taken to clean up the sediment that has left the site. Documentation of uncontrolled releases at the site does not alleviate any state or federal requirements for reporting of discharges or upset conditions. Care should be taken to ensure compliance with all regulatory requirements at site.

15.7 Enforcement

The enforcement of an approved ESCP or SWMP is typically driven by the inspection process. If inadequate control measures are identified by the permittee during a Self-Monitoring Inspection or the City's Stormwater Inspector during an inspection, the permittee must undertake corrective actions immediately after they become aware of the inadequacies, unless infeasible. If immediate corrective action is not possible, the permittee must document the reason why and an alternative schedule for completion of the corrective action in the ESCP or SWMP. The City's Stormwater Inspector will require documentation of the completed corrective actions in response to the inadequacies of the ESCP or SWMP.

In cases where corrective actions are not completed as described above, or in certain other cases, the City may take more aggressive actions to get a site into compliance with the approved ESCP or SWMP. Table 15-2 summarizes some of these actions.

It is expected that under normal conditions, escalation of enforcement actions will proceed through a Written Warning, Notice of Violation, and finally a Municipal Summons.

Table 15-2. Typical Enforcement Mechanisms

Enforcement Option	Description	Typical Applications
Written Warning	The City Stormwater Inspector (CSI) will inform the permittee, responsible party, or agent for, of items that require corrective action.	No immediate danger to public safety, property, or water resources. Items must be corrected immediately, not to exceed 48 hours.
Notice of Violation	The CSI will document the items that were not corrected from the Written Warning. A Notice of Violation will be sent via first class and certified mail to the permittee, responsible party, or agent for.	No immediate danger to public safety, property, or water resources. Items must be corrected immediately, not to exceed 48 hours.
Municipal Summons	The CSI will issue a Municipal Summons after failure to comply with the Notice of Violation or for an illicit discharge that causes an immediate danger to public safety, property, or water resources.	Immediate danger to public safety, property, or water resources or when no adequate corrective action has been taken following the Written Warning and Notice of Violation.

This page intentionally left blank.

Chapter 16.0 References

- AASHTO, 2002. *Standard Specifications for Highway Bridges. 17th Edition - 2002.*
- CDOT, 2019. *Drainage Design Manual.*
- Chow, V.T. 1959. *Open Channel Hydraulics.* New York: McGraw-Hill Book Company.
- City of Pueblo, 2004. *Roadway Classification Design Standards and Policies.*
- Commerce City, 2021. *Storm Drainage Design and Technical Criteria Manual.*
- Douglas County, 2008. *Storm Drainage Design and Technical Criteria Manual.* Douglas County. Amended July 8, 2008.
- FEMA, 2010. *National Flood Insurance Program (NFIP) Floodplain Management Requirements: A Study Guide and Desk Reference for Local Officials.* Washington, DC: FEMA.
- FHWA, 2012. *Hydraulic Design of Highway Culverts.* Federal Highway Administration Hydraulic Design Series No. 5. 2012.
- FHWA, 2012. *Evaluating Scour at Bridges.* Federal Highway Administration. Hydraulic Engineering Circular No. 18 (HEC-18), Fifth Edition, 2012.
- FHWA, 2012. *Stream Stability at Highway Structures.* Federal Highway Administration. Hydraulic Engineering Circular No. 20 (HEC-20), Fourth Edition, 2012.
- FHWA, 2016. *Highways in the River Environment — Floodplains, Extreme Events, Risk, and Resilience.* Federal Highway Administration. Hydraulic Engineering Circular No. 17. 2016.
- Greenwood Village, 2020. *Greenwood Village Storm Drainage Criteria Manual.*
- Guo J.C.Y., 2000. Street Storm Water Conveyance Capacity. *Journal of Irrigation and Drainage Engineering* 136(2)119-124.
- NOAA 2013. *NOAA Atlas 14. Precipitation-Frequency Atlas of the United States. Volume 8 Version 2.0: Midwestern States (Colorado, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Wisconsin).* U.S Department of Commerce. National Oceanic and Atmospheric Administration. 2013.
- ODOT 2014. Oregon Department of Transportation Hydraulics Manual. April 2014.
- SEO 2020. *Rules and Regulations for Dam Safety and Dam Construction.* State of Colorado Department of Natural Resources, Division of Water Resources, Office of the State Engineer, Dam Safety. Effective Date: January 1, 2020.
- UDFCD, 2016. *Urban Storm Drainage Criteria Manual.* Urban Drainage and Flood Control District. 2016.

UDFCD, 2016. New Colorado Revised Statute §37-92-602 (8) “*Concerning a Determination that Water Detention Facilities Designed to Mitigate the Adverse Effects of Storm Water Runoff Do Not Materially Injure Water Rights.*” [Memorandum].

WEF and ASCE, 1992. *Design and Construction of Urban Stormwater Management Systems*. Manual of Practice 77. 1992.

Appendices

Appendix A.

Guidance for Parameters Used in Calculations

Table A. Recommended percentage imperviousness values (from MHFD Manual)

Land Use or Surface Characteristics	Percentage Imperviousness (%)
Business:	
Downtown Areas	95
Suburban Areas	75
Residential lots (lot area only):	
Single-family	
2.5 acres or larger	12
0.75 – 2.5 acres	20
0.25 – 0.75 acres	30
0.25 acres or less	45
Apartments	75
Industrial:	
Light areas	80
Heavy areas	90
Parks, cemeteries	10
Playgrounds	25
Schools	55
Railroad yard areas	50
Undeveloped Areas:	
Historic flow analysis	2
Greenbelts, agricultural	2
Off-site flow analysis (when land use not defined)	45
Streets:	
Paved	100
Gravel (packed)	40
Drive and walks	90
Roofs	90
Lawns, sandy soil	2
Lawns, clayey soil	2

The following tables, text, and figures of runoff coefficients and equations based on NRCS soil groups have been excerpted from the MHFD Manual *Runoff* chapter (Chapter 6):

Table 6-4. Runoff coefficient equations based on NRCS soil group and storm return period

NRCS Soil Group	Storm Return Period						
	2-Year	5-Year	10-Year	25-Year	50-Year	100-Year	500-Year
A	$C_A =$ $0.84i^{1.302}$	$C_A =$ $0.86i^{1.276}$	$C_A =$ $0.87i^{1.232}$	$C_A =$ $0.88i^{1.124}$	$C_A =$ $0.85i+0.025$	$C_A =$ $0.78i+0.110$	$C_A =$ $0.65i+0.254$
B	$C_B =$ $0.84i^{1.169}$	$C_B =$ $0.86i^{1.088}$	$C_B =$ $0.81i+0.057$	$C_B =$ $0.63i+0.249$	$C_B =$ $0.56i+0.328$	$C_B =$ $0.47i+0.426$	$C_B =$ $0.37i+0.536$
C/D	$C_{C/D} =$ $0.83i^{1.122}$	$C_{C/D} =$ $0.82i+0.035$	$C_{C/D} =$ $0.74i+0.132$	$C_{C/D} =$ $0.56i+0.319$	$C_{C/D} =$ $0.49i+0.393$	$C_{C/D} =$ $0.41i+0.484$	$C_{C/D} =$ $0.32i+0.588$

Where:

i = % imperviousness (expressed as a decimal)

C_A = Runoff coefficient for Natural Resources Conservation Service (NRCS) HSG A soils

C_B = Runoff coefficient for NRCS HSG B soils

$C_{C/D}$ = Runoff coefficient for NRCS HSG C and D soils.

The values for various catchment imperviousness and storm return periods are presented graphically in Figures 6-1 through 6-3, and are tabulated in Table 6-5. These coefficients were developed for the Denver region to work in conjunction with the time of concentration recommendations in Section 2.4. Use of these coefficients and this procedure outside of the semi-arid climate found in the Denver region may not be valid. The UD-Rational Excel workbook performs all the needed calculations to find the runoff coefficient given the soil type and imperviousness and the reader may want to take advantage of this macro-enabled Excel workbook that is available for download from the UDFCD's website www.udfcd.org.

See Examples 7.1 and 7.2 that illustrate the Rational Method.

Table 6-5. Runoff coefficients, *c*

Total or Effective % Impervious	NRCS Hydrologic Soil Group A						
	2-Year	5-Year	10-Year	25-Year	50-Year	100-Year	500-Year
2%	0.01	0.01	0.01	0.01	0.04	0.13	0.27
5%	0.02	0.02	0.02	0.03	0.07	0.15	0.29
10%	0.04	0.05	0.05	0.07	0.11	0.19	0.32
15%	0.07	0.08	0.08	0.1	0.15	0.23	0.35
20%	0.1	0.11	0.12	0.14	0.2	0.27	0.38
25%	0.14	0.15	0.16	0.19	0.24	0.3	0.42
30%	0.18	0.19	0.2	0.23	0.28	0.34	0.45
35%	0.21	0.23	0.24	0.27	0.32	0.38	0.48
40%	0.25	0.27	0.28	0.32	0.37	0.42	0.51
45%	0.3	0.31	0.33	0.36	0.41	0.46	0.54
50%	0.34	0.36	0.37	0.41	0.45	0.5	0.58
55%	0.39	0.4	0.42	0.45	0.49	0.54	0.61
60%	0.43	0.45	0.47	0.5	0.54	0.58	0.64
65%	0.48	0.5	0.51	0.54	0.58	0.62	0.67
70%	0.53	0.55	0.56	0.59	0.62	0.65	0.71
75%	0.58	0.6	0.61	0.64	0.66	0.69	0.74
80%	0.63	0.65	0.66	0.69	0.71	0.73	0.77
85%	0.68	0.7	0.71	0.74	0.75	0.77	0.8
90%	0.73	0.75	0.77	0.79	0.79	0.81	0.84
95%	0.79	0.81	0.82	0.83	0.84	0.85	0.87
100%	0.84	0.86	0.87	0.88	0.88	0.89	0.9
Total or Effective % Impervious	NRCS Hydrologic Soil Group B						
	2-Year	5-Year	10-Year	25-Year	50-Year	100-Year	500-Year
2%	0.01	0.01	0.07	0.26	0.34	0.44	0.54
5%	0.03	0.03	0.1	0.28	0.36	0.45	0.55
10%	0.06	0.07	0.14	0.31	0.38	0.47	0.57
15%	0.09	0.11	0.18	0.34	0.41	0.5	0.59
20%	0.13	0.15	0.22	0.38	0.44	0.52	0.61
25%	0.17	0.19	0.26	0.41	0.47	0.54	0.63
30%	0.2	0.23	0.3	0.44	0.49	0.57	0.65
35%	0.24	0.27	0.34	0.47	0.52	0.59	0.66
40%	0.29	0.32	0.38	0.5	0.55	0.61	0.68
45%	0.33	0.36	0.42	0.53	0.58	0.64	0.7
50%	0.37	0.4	0.46	0.56	0.61	0.66	0.72
55%	0.42	0.45	0.5	0.6	0.63	0.68	0.74
60%	0.46	0.49	0.54	0.63	0.66	0.71	0.76
65%	0.5	0.54	0.58	0.66	0.69	0.73	0.77
70%	0.55	0.58	0.62	0.69	0.72	0.75	0.79
75%	0.6	0.63	0.66	0.72	0.75	0.78	0.81
80%	0.64	0.67	0.7	0.75	0.77	0.8	0.83
85%	0.69	0.72	0.74	0.78	0.8	0.82	0.85
90%	0.74	0.76	0.78	0.81	0.83	0.84	0.87
95%	0.79	0.81	0.82	0.85	0.86	0.87	0.88
100%	0.84	0.86	0.86	0.88	0.89	0.89	0.9

Table 6-5. Runoff coefficients, *c* (continued)

Total or Effective % Impervious	NRCS Hydrologic Soil Group C						
	2-Year	5-Year	10-Year	25-Year	50-Year	100-Year	500-Year
2%	0.01	0.05	0.15	0.33	0.40	0.49	0.59
5%	0.03	0.08	0.17	0.35	0.42	0.5	0.6
10%	0.06	0.12	0.21	0.37	0.44	0.52	0.62
15%	0.1	0.16	0.24	0.4	0.47	0.55	0.64
20%	0.14	0.2	0.28	0.43	0.49	0.57	0.65
25%	0.18	0.24	0.32	0.46	0.52	0.59	0.67
30%	0.22	0.28	0.35	0.49	0.54	0.61	0.68
35%	0.26	0.32	0.39	0.51	0.57	0.63	0.7
40%	0.3	0.36	0.43	0.54	0.59	0.65	0.71
45%	0.34	0.4	0.46	0.57	0.62	0.67	0.73
50%	0.38	0.44	0.5	0.6	0.64	0.69	0.75
55%	0.43	0.48	0.54	0.63	0.66	0.71	0.76
60%	0.47	0.52	0.57	0.65	0.69	0.73	0.78
65%	0.51	0.56	0.61	0.68	0.71	0.75	0.79
70%	0.56	0.61	0.65	0.71	0.74	0.77	0.81
75%	0.6	0.65	0.68	0.74	0.76	0.79	0.82
80%	0.65	0.69	0.72	0.77	0.79	0.81	0.84
85%	0.7	0.73	0.76	0.79	0.81	0.83	0.86
90%	0.74	0.77	0.79	0.82	0.84	0.85	0.87
95%	0.79	0.81	0.83	0.85	0.86	0.87	0.89
100%	0.83	0.85	0.87	0.88	0.89	0.89	0.9

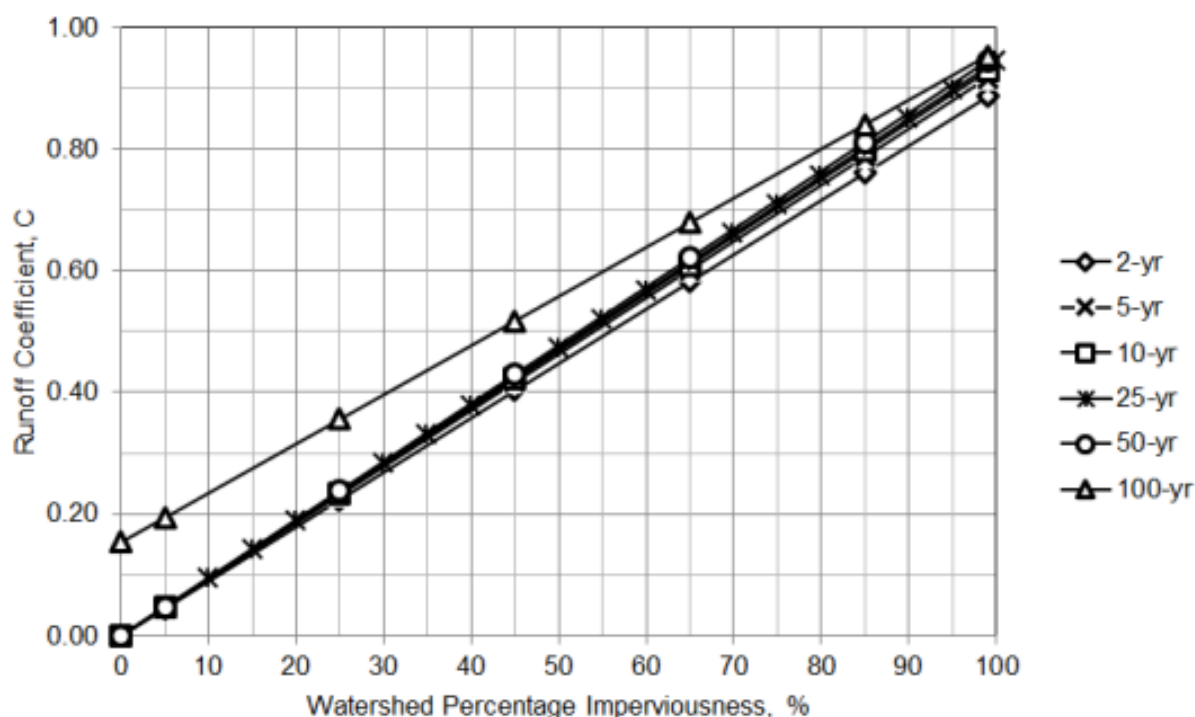


Figure 6-1. Runoff coefficient vs. watershed imperviousness NRCS HSG A

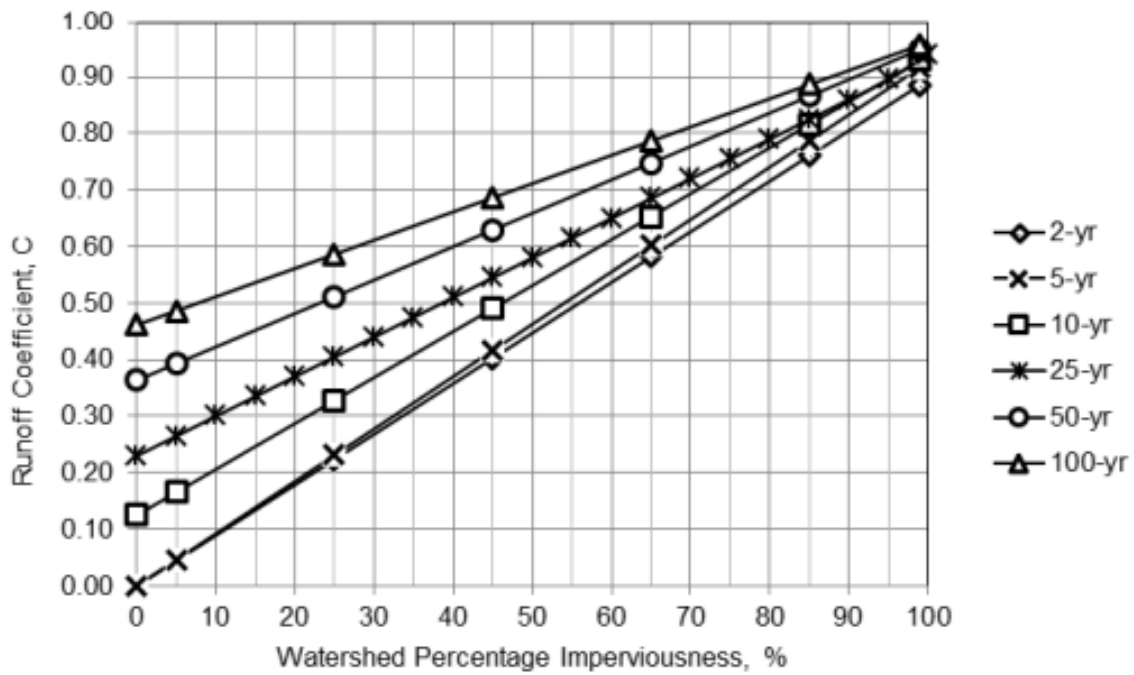
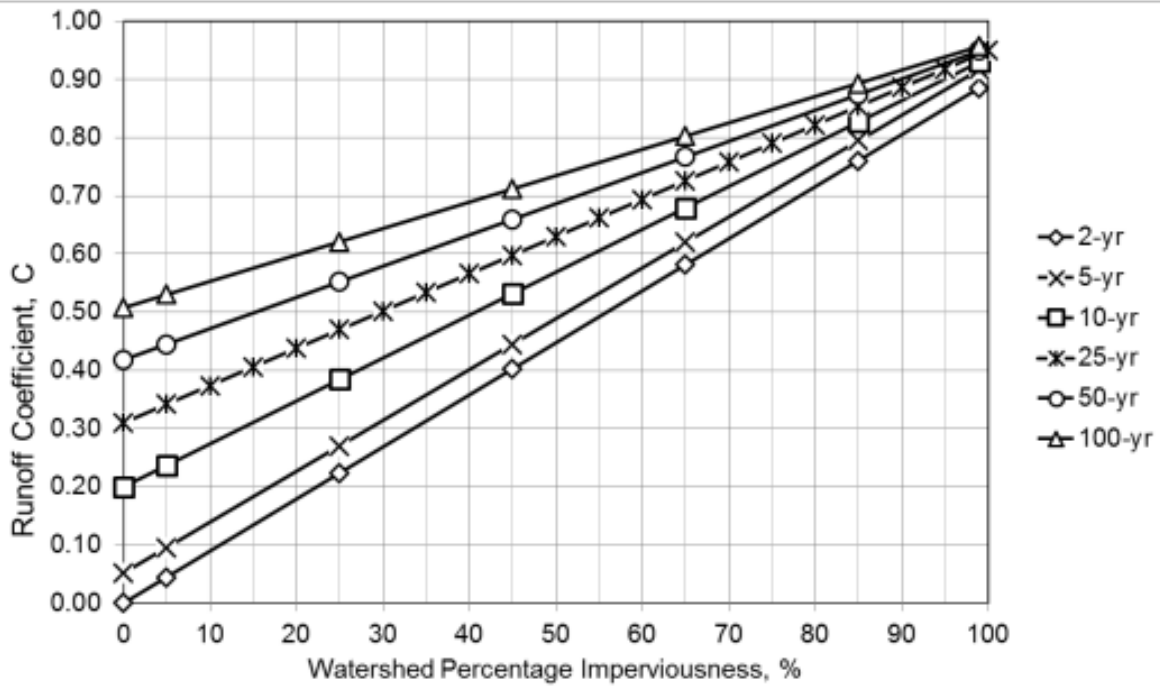


Figure 6-2. Runoff coefficient vs. watershed imperviousness NRCS HSG B



This page intentionally left blank.

Appendix B.

Drainage Report Checklist



City of Pueblo
 211 E. "D" Street
 Pueblo, CO 81003
 Phone (719) 553-2899
 stormwater@pueblo.us

DRAINAGE REPORT CHECKLIST

INCOMPLETE SUBMITTALS PROLONG THE REVIEW PROCESS	
Drainage Report Submittal Checklist and Review Sheet	
Applies to Part I & II Subdivision Plans and Commercial Site Plans	
Project Location:	
Owner Name:	
Owner Email:	
Owner Phone:	
Owner Address:	
Engineer Name:	
Engineer Email:	
Engineer Phone:	
Engineer Address:	
Date Submitted:	
Submitted by (firm):	
Contact:	Phone:

Review Requirements (All reports will be rejected if missing these requirements)

Complete	Review Requirements
	Cover letter prepared by the professional engineer responsible for the preparation of the report.
	P.E. Certification: Signed and sealed certification statement indicating that the engineer of record has completely reviewed this drainage report.
	The drainage report and plan follow the formatting set forth in this checklist and the City of Pueblo Drainage Criteria Manual (DCM).
	The design follows the criteria set forth by the City of Pueblo's DCM.
	The design meets the City of Pueblo's MS4 permit



City of Pueblo
211 E. "D" Street
Pueblo, CO 81003
Phone (719) 553-2899
stormwater@pueblo.us

DRAINAGE REPORT CHECKLIST

Report Requirements

Complete	N/A	Report Requirements
		1. Title Page
		2. Cover Letter
		3. Drainage Report Checklist
		4. Table of Contents
		5. Introduction
		6. General Location and Description
		7. General Location Map
		8. Existing Drainage Reports/Master Plans
		9. Upstream Considerations
		10. Downstream Considerations
		11. Floodplain Discussion and FIRM
		12. Soils Discussion
		13. Methods of Analysis
		14. Historic Conditions
		15. Proposed conditions
		16. Water Quality
		17. Maintenance
		18. Conclusions
		19. References

Appendices

Complete	N/A	Appendices
		1. Appendix A – Hydrologic and Hydraulic Computations
		A. Hydrologic Calculations
		B. Hydraulic Computations (<i>Applicable to Part II of the Subdivision process</i>)
		C. Water Quality
		2. Appendix B – Standard Design Charts and Tables
		3. Appendix C – Floodplain Maps
		4. Appendix D – Soils
		A. SCS Soils Map (not entire report)
		B. Geotechnical study (if performed), including groundwater elevations
		5. Appendix E – Maps/Plans
		A. Historic Drainage Map



City of Pueblo
 211 E. "D" Street
 Pueblo, CO 81003
 Phone (719) 553-2899
 stormwater@pueblo.us

DRAINAGE REPORT CHECKLIST

Complete	N/A	Appendices
		B. Drainage Plan The Drainage Plan shall be a stand-alone document. The information shown on the checklist must be shown on the Drainage Plan. Other plan submittals (e.g., separate utility plan, separate grading plan, etc.) will not be accepted for review.
		i. Title block.
		ii. Engineer's statement.
		iii. Overall drainage basin boundary and sub-basin boundaries.
		iv. Existing and proposed contours at 2 ft. maximum intervals. In terrain where slopes exceed 10%, maximum interval is 10 ft.
		v. Property lines and easements with purposes noted.
		vi. Streets and R.O.W. lines.
		vii. Flow arrows
		viii. Accumulation of flows (cfs) at design points.
		ix. Show paths chosen for computation of time of concentration.
		x. Existing and proposed utilities, type, and size.
		xi. Show <i>Design Point Summary Table</i> (minor and major flows), <i>Basin Summary Table</i> (minor and major flows), and <i>Pipe Routing Summary Table</i> (flows, sizes, material types, slopes, and total length).
		xii. Impervious and pervious area table.
		xiii. Existing and proposed storm sewers, inlets, and manholes. For storm sewers show size, slope, material, flow rate and flow arrows. For inlet show type and length. Show diameter of manholes.
		xiv. Existing and proposed culverts. Show size, material, and flow rate. Show headwalls, wingwalls and riprap pad size and type. Delineate 100-year ponding limits.
		xv. Existing and proposed open channels. Show typical cross sections with water surface elevations. Identify channel lining, slope, flow rate and velocity, and details of erosion control features and trickle channel.
		xvi. Existing and proposed detention ponds. Show grading, storage volumes for the WQCV, EURV and 100-year ponding elevations. Show outlet structure, spillway, trickle channel, forebay and micropool details.
		xvii. Existing natural channels within 150 feet of project. Delineate 100-year floodplain (or erosion buffer zone if applicable. Show bridges, culverts, and erosion control features if any.
		xviii. Drainage details (outlet structures, restrictor plates, orifice plate, spillway, riprap, etc.).
		xix. Professional Engineer's seal and signature on record copy.



City of Pueblo
211 E. "D" Street
Pueblo, CO 81003
Phone (719) 553-2899
stormwater@pueblo.us

DRAINAGE REPORT CHECKLIST

Complete	N/A	Appendices
		C. Erosion Sediment Control Plan (ESCP) or Stormwater Management Plan (SWMP)

I. Signatures

I hereby certify that this _____ (Preliminary/Final) Drainage Report for the _____ (Name of Development) was prepared by me (or under my direct supervision) in accordance with the provisions of the City of Pueblo's Drainage Criteria Manual for the owners thereof. I understand that the City of Pueblo does not, and will not, assume liability for drainage facilities designed by others.

Name

Licensed Professional Engineer

State of Colorado No. _____

(Affix Seal)

Submittal Rejected by _____ Date _____

Submittal Accepted by _____ Date _____

Appendix C.

Erosion and Sediment Control Plan Guidance

Guidance for the Development of an Erosion and Sediment Control Plan (ESCP) in the City of Pueblo

Erosion and Sediment Control Plan (ESCP) Requirements

The City of Pueblo (City) requires an Erosion and Sediment Control Plan (ESCP) be developed for all construction sites disturbing at least 1,000 square feet but less than 1 acre. The ESCP must be submitted to the City prior to commencement of land disturbing activities. Once the submitted ESCP is accepted by the Stormwater Utility, it becomes an enforceable part of the Construction Permit. The ESCP must be implemented as written and updated during the project, from commencement of construction activity until final stabilization is complete.

Construction sites greater than 1,000 square feet and less than 1 acre are required to submit an **Erosion and Sediment Control Plan (ESCP)**.

Construction sites 1 acre or more, or less than 1 acre and part of a larger common plan of development 1 acre or more, are required to submit a **Stormwater Management Plan (SWMP)** to the City and obtain a Construction Stormwater Discharge Permit from CDPHE.

A copy of the ESCP must be kept onsite, either physically or electronically, when construction activities are occurring at the site unless the permittee specifies another location and obtains prior approval from the City.

General Requirements

The ESCP shall consist of acceptable erosion control practices and sediment control facilities in conjunction with an appropriate implementation schedule in order to accomplish adequate control. Adequate erosion control measures shall be constructed prior to land disturbing activities such that no adverse effects of site alteration will impact surrounding properties. Particular attention shall be given to concentrated flows of water, either to prevent their occurrence or to provide appropriate conveyance devised to prevent erosion. Sediment control devices shall be required at all points where sediment laden water might leave the site.

The plan must include permanent structures for conveying storm runoff, final site stabilization, and temporary sediment control features including sediment basins and stabilization of the sites where temporary features have been removed. Any erosion control measures to be implemented outside of the property line of the site will generally not be approved unless the plan is accompanied by an appropriate legal easement of the area in which such work is to be done.

Information regarding acceptable BMPs and proper installation can be found in Volume 3 of the MHFD Manual, the CDOT Erosion Control & Stormwater Quality Guide, and City of Pueblo approved details.

Erosion and Sediment Control Plan (for 1000 sq ft to 1 acre)

The City requires an ESCP at one of the following scales: 1" = 20', 1" = 30', 1" = 40', or 1" = 50'. The scale selected must be suitable for practical use and readability. The ESCP must include the following elements:

- a. Title block, including name and address of proposed project, submittal date, title of drawing, and sheet number.
- b. Existing and proposed right-of-way and easements.
- c. Drawing information, including north arrow indicator, drawing scale, and symbol legend.
- d. Property boundary.
- e. Flow arrows that depict stormwater flow directions onsite and runoff direction.
- f. Control Measures addressing the following:
 - 1) Land disturbance and storage of soils.
 - 2) Vehicle tracking.
 - 3) Loading and unloading operations.
 - 4) Outdoor storage of construction site materials, building materials, fertilizers, and chemicals.
 - 5) Bulk storage of materials.
 - 6) Vehicle and equipment maintenance and fueling.
 - 7) Significant dust or particulate generating processes.
 - 8) Routine maintenance activities involving fertilizers, pesticides, detergents, fuels, solvents, and oils.
 - 9) Concrete truck/equipment washing, including the concrete truck chute and associated fixtures and equipment.
 - 10) Dedicated asphalt and concrete batch plants.
 - 11) Other areas or operations where spills can occur.
 - 12) Other non-stormwater discharges including construction dewatering not covered under the Construction Dewatering Discharges general permit and wash water that may contribute pollutants to the MS4.

- g. Locations for all structural SCMs.
- h. Locations of all non-structural SCMs.
- i. Location of existing and proposed structures on the site, with structures subject to demolition clearly identified.
- j. All applicable City standard notes.
 - i. Prior to any construction, including site grading and excavation, an approved 'Erosion and Sediment Control Plan' shall be posted on-site and all required BMPs installed.
 - ii. General contractor shall maintain and update the 'Erosion and Sediment Control Plan' as construction dictates. Current and correct plan shall always remain on-site and be readily accessible to the City Stormwater Inspector.
 - iii. General contractor or his representative shall inspect, at a minimum, the site every 2 weeks and within 24 hours of any precipitation or snowmelt event that causes surface erosion. (i.e., that results in stormwater running across the ground).
 - iv. General contractor/owner is fully responsible to maintain all required BMPs to prevent erosion and sediment from leaving the construction site.
 - v. Failure to comply with minimum requirements is a violation of City Ordinances.
 - vi. No cross-lot drainage permitted. Stormwater shall be directed to the nearest public Right-of-Way (streets & alleys), dedicated drainage easements, and/or City of Pueblo stormwater conveyance system.
- k. Installation and implementation specifications or a reference to the document.

This page intentionally left blank.

Appendix D.

Stormwater Management Plan Guidance

Guidance for the Development of a Stormwater Management Plan (SWMP) in the City of Pueblo

Stormwater Management Plan (SWMP) Requirements

Each construction site with an area of disturbance of 1 acre or more and/or which is part of a common plan of development that disturbs 1 acre or more requires the development of a SWMP in accordance with good engineering, hydrologic, and pollution control practices and must be submitted to the Stormwater Utility Division prior to beginning construction activities. The Stormwater Department will evaluate whether the SWMP meets the requirements of the City's MS4 permit and the City's DCM. Once the submitted SWMP is approved by the Stormwater Utility, it becomes an enforceable part of the Construction Permit. The SWMP must be implemented as written and updated during the project, from commencement of construction activity until final stabilization is complete.

Construction sites greater than 1,000 square feet and less than 1 acre are required to submit an **Erosion and Sediment Control Plan (ESCP)**.

Construction sites 1 acre or more, or less than 1 acre and part of a larger common plan of development greater than 1 acre, are required to submit a **Stormwater Management Plan** to the City and obtain a Construction Stormwater Discharge Permit from CDPHE.

A copy of the SWMP must be kept onsite, either physically or electronically, when construction activities are occurring at the site unless the permittee specifies another location and obtains prior approval from the City.

SWMP Narrative Content and Site Map(s)

A complete description of SWMP requirements may be accessed on the CDPHE website. It is the responsibility of the applicant to ensure the content of the submitted SWMP meets current requirements of the State's Stormwater Construction Permit. The SWMP, at a minimum, must include the elements listed below (note: refer to the CDPHE website for the most current permit requirements):

1. **Qualified Stormwater Manager:** The SWMP must list individual(s) by title and name who are designated as the site's qualified stormwater manager(s) responsible for implementing the SWMP in its entirety. This role may be filled by more than one individual.
2. **Spill Prevention and Response Plan:** The SWMP must have a spill prevention and response plan. The plan may incorporate by reference any part of a Spill Prevention Control and Countermeasure (SPCC) plan under Section 311 of the Clean Water Act or a Spill Prevention Plan required by a separate CDPS permit. The relevant sections of any referenced plans must be included as part of the SWMP.

3. **Materials Handling:** The SWMP must describe and locate all SCMs implemented on the site to minimize impacts from handling significant materials that could contribute pollutants to runoff. These handling procedures can include SCMs for pollutants and activities such as exposed storage of building materials, paints and solvents, landscape materials, fertilizers or chemicals, sanitary waste material, trash, and equipment maintenance or fueling procedures.
4. **Potential Sources of Pollution:** The SWMP must list all potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharges associated with construction activity from the site. This must include, but is not limited to, the following pollutant sources:
 - a. Disturbed and stored soils.
 - b. Vehicle tracking of sediments.
 - c. Management of contaminated soils.
 - d. Loading and unloading operations.
 - e. Outdoor storage activities (erodible building materials, fertilizers, chemicals, etc.).
 - f. Bulk storage of materials.
 - g. Vehicle and equipment maintenance and fueling.
 - h. Significant dust or particulate generating processes (e.g., saw cutting material, including dust).
 - i. Routine maintenance activities involving fertilizers, pesticides, herbicides, detergents, fuels, solvents, oils, etc.
 - j. On-site waste management practices (waste piles, liquid wastes, dumpsters).
 - k. Concrete truck/equipment washing, including washing of the concrete truck chute and associated fixtures and equipment.
 - l. Dedicated asphalt, concrete batch plants, and masonry mixing stations.
 - m. Non-industrial waste sources such as worker trash and portable toilets.
 - n. Other areas or operations where spills can occur.
 - o. Other non-stormwater discharges including construction dewatering discharges not covered under the CDPS General Permit for Construction Dewatering Discharges and wash water that may contribute pollutants to the MS4.

5. **Implementation of SCMs:** The SWMP must include design specifications that contain information on the implementation of SCMs in accordance with good engineering, hydrologic and pollution control practices. This information may include applicable drawings, dimensions, installation information, materials, implementation processes, SCM-specific inspection expectations, and maintenance requirements. A narrative description of non-structural SCMs must also be included in the SWMP.

The SWMP must include a documented use agreement between the permittee and the owner or operator of any SCMs located outside of the permitted area that are utilized by the permittee's construction site for compliance with this permit but not under the direct control of the permittee. The permittee is responsible for ensuring that all control measures located outside of their permitted area that are being utilized by the permittee's construction site are properly maintained and in compliance with all terms and conditions of the permit. The SWMP must include all information required for and relevant to any SCMs located outside the permitted area, including location, installation specifications, design specifications, and maintenance requirements.

6. **Site Description:** The SWMP must include a site description which includes, at a minimum, the following:
 - a. Nature of the construction activity at the site.
 - b. Proposed schedule for the sequence for major construction activities and the planned implementation of control measures for each phase (e.g., clearing, grading, utilities, vertical, etc.).
 - c. Estimates of the total acreage of the site, and the acreage expected to be disturbed by clearing, excavation, grading, or any other construction activities.
 - d. Summary of any existing data used in the development of the construction site plans or SWMP that describe the soil or existing potential for soil erosion.
 - e. Description of the percent of existing vegetative ground cover relative to the entire site and the method for determining the percentage.
 - f. Description of any allowable non-stormwater discharges at the site, including those being discharged under CDPHE's low risk discharge guidance policy.
 - g. Description of areas receiving discharge from the site. Including a description of the immediate source receiving the discharge. If the stormwater discharge is to an MS4, the name of the entity owning that system, the location of the storm sewer discharge, and the ultimate receiving water(s).
 - h. Description of all stream crossings located within the construction site boundary.

7. **Erosion and Sediment Control Drawings (for SWMP):** The City requires that the SWMP include one or more site maps (erosion and sediment control drawings) at one of the following scales: 1" = 20', 1" = 30', 1" = 40', or 1" = 50'. The scale selected must be suitable for practical use and readability. The site map(s) must include the following elements:
- a. Title block, including name and address of proposed project, submittal date, title of drawing, and sheet number.
 - b. Existing and proposed right-of-way and easements.
 - c. Drawing information, including north arrow indicator, section, township, range, drawing scale, and symbol legend.
 - d. Construction site boundaries – all areas outside of the limits of construction must be lightly shaded to clearly show area not to be disturbed.
 - e. Flow arrows that depict stormwater flow directions onsite and runoff direction.
 - f. Existing and proposed topography, including cross-sections showing both existing and proposed grades and clearly marked existing and proposed grading contours (legible with elevations) extending at least 100 feet beyond the project boundaries. Contour intervals of 1 to 2 feet are required for these plans depending on the topographic relief of the site.
 - g. All areas of ground disturbance including areas of borrow and fill and including phased limits of grading and clearing.
 - h. Locations of areas used for storage of soil.
 - i. Locations of all waste accumulation areas, including areas for liquid, concrete, masonry, and asphalt.
 - j. Locations of dedicated asphalt, concrete batch plants and masonry mixing stations, including containment areas for chute washout.
 - k. Locations of fuel, lubricant, and chemical storage areas and equipment maintenance and fueling locations.
 - l. Locations of sanitary facilities.
 - m. Locations of contaminated areas.
 - n. Locations of construction entrances.
 - o. Locations of and phasing for all structural SCMs.
 - p. Locations of and phasing for all non-structural SCMs.

- q. Locations of springs, streams, wetlands, and other state waters, areas that require pre-existing vegetation be maintained within 50 feet of a receiving water, and other natural features within 100 feet of the site boundary must be shown.
 - r. Locations of all stream crossings located within the construction site boundary.
 - s. Locations where alternative temporary stabilization schedules apply.
 - t. Location of existing and proposed structures on the site, with structures subject to demolition clearly identified.
 - u. Locations of all storm runoff discharge points at site boundaries or internal to site if a drainageway is located onsite.
 - v. Name of receiving water(s): if discharge is to an existing storm sewer system, this should be stated, along with the name of the ultimate receiving water(s).
 - w. All applicable City standard notes.
 - x. Installation details for all proposed construction SCMs.
 - y. Details for all proposed structural permanent stormwater quality control measures.
 - z. Professional engineer's stamp and signature.
8. **Final Stabilization and Long-term Stormwater Management:** The SWMP must describe the practices used to achieve final stabilization of all disturbed areas at the site and identify permanent stormwater controls (e.g., detention ponds, bioretention) that will be in place after construction operations are completed. Some post-construction water quality structural stormwater control measures, such as extended detention basins, may be used temporarily as construction SCMs when site conditions allow. A description of the procedures to be employed to convert an active construction SCM to a permanent water quality feature may also be required to ensure final design standards are met without any reduction in capacity or function resulting from the use of the SCM during construction. Infiltration-based post-construction control measures such as bioretention facilities are not suitable for use during the construction phase.
9. **Inspection Reports:** After construction begins, the onsite copy of the SWMP must include documented inspections. See Section 15.5.3 of the *Construction Site Stormwater Management and Erosion Control* chapter of the DCM.
10. **Permittee Certification:** Each SWMP will include a signed certification by each co-permittee as follows:

"I am duly authorized to submit, on my own behalf as (insert name of co-permittee applicant) or as a duly authorized representative of (insert name of co-permittee applicant), this Stormwater Management Plan. I understand that erosion control, sediment control and water quality enhancing measures beyond those described herein may be required in accordance with a finally approved Stormwater Management Plan for the Project named above as described herein. Further, I understand that, once approved by the City of Pueblo's issuance of the requested Permit, my obligations to implement the approved Plan must continue until such time as the Plan is properly completed, modified or terminated."

Supporting Technical Information and Documents

When applicable to the project, copies of additional plans and/or technical materials must be available for review upon request by the City and may include the following:

1. Drainage report
2. Soils/geotechnical studies
3. Environmental audits (for sites under environmental remediation)
4. Copies of applications for related Colorado Discharge Permit System (CDPS) permits, including:
 - a. Stormwater Discharges Associated with Construction Activity
 - b. Construction Dewatering Discharges
 - c. Remediation Activities Discharging to Surface Water or Groundwater
5. Air Pollution Emission Notification – Fugitive Dust or other Air Pollution Permits
6. Copies of correspondence with other governmental jurisdictions related to:
 - a. Wetlands
 - b. Floodplains
 - c. Waterways
 - d. Discharges to or from other jurisdictions
 - e. Total Maximum Daily Load (TMDL) requirements specified by CDPHE
7. Copies of temporary access agreements with adjacent landowners, including:
 - a. Use of land for material storage or lay down
 - b. Stabilization and restoration of disturbed areas
 - c. Acceptance of flow to or from adjacent sites





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION APPROVING AMENDMENT NO. 3 TO THE PUBLIC ART SERVICES AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND KENNETH T. WILLIAMS, RELATED TO PROJECT NO. 17-065, PUBLIC ART PROJECT FOR PUEBLO I-25 GATEWAY, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

This Resolution approves Amendment No. 3 to the Public Art Services Agreement awarded to Kenneth T. Williams for Project No. 17-065 (PL1801) - Public Art Project for Pueblo I-25 Gateway.

PREVIOUS COUNCIL ACTION:

Ordinance No. 9229, passed by City Council on February 12, 2018, established Project No. PL1801 - Dillon Flyover Bridge Art Project and transferred, budgeted, and appropriated \$130,000 for the project.

Resolution No. 14007, passed by City Council on July 9, 2018, approved the award of a Public Art Services Agreement (Bid No. 17-065) with Kenneth T. Williams, dated July 9, 2018, to design and construct the Gateway to the Southwest Art project with a maximum contract value of \$600,000.00.

Resolution No. 14598, passed by City Council on April 26, 2021, approved Amendment No. 1 to the Public Art Services Agreement with Kenneth T. Williams, dated April 26, 2021, to add the fabrication and installation of replica monuments on public property located along Central Main Street in Downtown Pueblo at a cost of \$22,000.00.

Multiple ordinances have been passed by City Council since 2018, accepting public and private financial contributions towards the project. To date, \$960,070.00 of public and private contributions have been accepted, budgeted and appropriated through the passage of Ordinance Nos. 9209, 9229, 9408, 9445, 9489, 9541, 9552, 9664, 9688,

9871, and 10075.

BACKGROUND:

Kenneth Williams (Williams Studios) completed the design of the Gateway to the Southwest Monument project and the construction of the monument in the easternmost roundabout under the initial contract award in 2018. At the time the contract was awarded, sufficient funding to complete the second half of the project was not made available, so work on the other (westernmost) monument did not begin. Since that time, additional funds have been provided by various public and private entities to cover the unmet project costs.

FINANCIAL IMPLICATIONS:

The additional project funds for Amendment No. 3 in the amount of \$373,425.00 will be paid from the Dillon Flyover Bridge Art Project (PL1801).

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Failure to pass this resolution will preclude the City from amending the current contract to complete the construction of the Gateway to the Southwest project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Amendment No. 3 - Public Art Services Agreement (Ken Williams Artist) - with Exhibit A

RESOLUTION NO. 15197

A RESOLUTION APPROVING AMENDMENT NO. 3 TO THE PUBLIC ART SERVICES AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND KENNETH T. WILLIAMS, RELATED TO PROJECT NO. 17-065, PUBLIC ART PROJECT FOR PUEBLO I-25 GATEWAY, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, Project No. 17-065 (PL1801), Public Art Project for Pueblo I-25 Gateway was awarded to Kenneth T. Williams, on July 9, 2018, resulting in the execution of a Public Art Services Agreement between the City of Pueblo, a municipal corporation, and Kenneth T. Williams, also dated July 9, 2018; and,

WHEREAS, Amendment No. 1 to the Public Art Services Agreement between the City of Pueblo, a Municipal Corporation, and Kenneth T. Williams, dated April 26, 2021, was approved under Resolution No. 14598; and,

WHEREAS, Amendment No. 2 to the Public Art Services Agreement between the City of Pueblo, a Municipal Corporation, and Kenneth Williams Artist, was approved pursuant to Section 1-5-2 (2) (f), Pueblo Municipal Code, and executed on May 31, 2022; and,

WHEREAS, the execution of Amendment No. 3 to the Public Art Services Agreement between the City of Pueblo, a Municipal Corporation, and Kenneth T. Williams Artist, is necessary to complete remaining construction work on the Dillon Bridge Flyover Art Project; and,

WHEREAS, a combination of public contributions and private donations have been budgeted and appropriated into Project No. PL1801 - Dillon Bridge Flyover Art Project for the completion of the project; and,

WHEREAS, it is in the best interest of the City of Pueblo to complete the Gateway to the Southwest Art Project in the manner herein provided; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Amendment No. 3, by and between the City of Pueblo, a Municipal Corporation, and Kenneth T. Williams, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The additional project funds for Amendment No. 3 in the amount of \$373,425.00 will be paid from the Dillon Flyover Bridge Art Project (PL1801).

SECTION 3.

The Purchasing Agent is hereby authorized to execute Amendment No. 3 on behalf of the City of Pueblo, a Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest same.

SECTION 4.

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

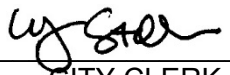
SECTION 5.

This Resolution shall be effective upon the date of final passage and approval of an Ordinance captioned "An Emergency Ordinance transferring \$55,000 from the Unappropriated Fund Balance of the General Fund to Project No. PL1801 - Dillon Flyover Bridge Art Project, and budgeting and appropriating \$55,000 for said project" and submitted for Council approval contemporaneously herewith.

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

**AMENDMENT NO. 3 TO THE
PUBLIC ART SERVICE AGREEMENT
BY AND BETWEEN
CITY OF PUEBLO AND KEN WILLIAMS ARTIST**

This Amendment No. 3 to the Public Art Service Agreement (“Agreement”) is executed to be effective as of the _____ day of _____, 2023 by and between the City of Pueblo Colorado, a Colorado Municipal Corporation (“Owner”) and Ken Williams Artist, a registered Individual in the State of Colorado (“Artist”). Owner and Artist are sometimes referred to herein as a “Party” and collectively, as the “Parties.”

WITNESSETH THAT:

WHEREAS, Owner and Artist entered into that certain Public Art Service Agreement dated the 9th day of July, 2018 (the “Agreement”) for Bid Project 17-065 Public Art Project for Pueblo I-25 Gateway with Amendment No. 1 dated the 26th day of April, 2021, and Amendment No. 2 dated the 31st day of May, 2022;

WHEREAS, Owner and Artist agree that all work identified in Phase 1 of the Project has been completed by Artist and Owner has paid Artist in full for said work;

WHEREAS, Owner and Artist agree that a portion of the work identified in Phase 2 of the Project, specifically the construction of the gateway monument in the east roundabout, herein subsequently identified as Phase 2A, has been completed by Artist and owner has paid Artist in full for said work;

WHEREAS, Owner and Artist agree that work required by Amendment No. 1 and Amendment No. 2 to this Agreement to fabricate and install scaled-down replicas of the gateway monuments has been completed by Artist and Owner has paid Artist in full for said work;

WHEREAS, funds required to complete construction of the gateway monument in the west roundabout were not previously available;

WHEREAS, sufficient funding has since been made available to complete all remaining Project work;

WHEREAS, Owner and Artist 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 Artist hereby agree to the following:

AGREEMENT

1. Subparagraph 2. b. of the Agreement is deleted and replaced in its entirety to read as follows:

b. Phase 2A. Phase 2A shall consist of the completion of all work required to construct the gateway monument in the eastern roundabout location. Artist shall pre-purchase and store certain materials necessary for the completion of the gateway monument in the west roundabout. Payment for materials pre-purchased in this Phase 2A shall not be payable under other work Phases. It is specifically acknowledged and agreed that commencement of Phase 2A is conditioned upon and subject to sufficient funds being budgeted and appropriated for completion of the work contemplated under this Phase 2A. Upon satisfaction of the foregoing condition precedent, the City will issue a Notice to Proceed with respect to Phase 2A. Artist must begin Phase 2A promptly upon receipt of the Notice to Proceed and must fully complete Phase 2A within 245 days of issuance of the Notice to Proceed.

2. A new Subparagraph 2. c. is added to read as follows:

c. Phase 2B. Phase 2B shall consist of the completion of all work necessary to construct the gateway monument in the western roundabout location according to plans and specifications approved by City. All materials that were pre-purchased during Phase 2A necessary for performing work specified in this Phase 2B shall be furnished by Artist for installation. Costs associated with said pre-purchased materials, having already been paid by City, shall not be payable under this Phase 2B. It is specifically acknowledged and agreed that commencement of Phase 2B is conditioned upon and subject to sufficient funds being budgeted and appropriated for completion of the work contemplated under this Phase 2B. Upon satisfaction of the foregoing condition precedent, the City will issue a Notice to Proceed with respect to Phase 2B. Artist must begin Phase 2B promptly upon receipt of the Notice to Proceed and must fully complete Phase 2B within 120 days of issuance of the Notice to Proceed.

3. A new Subparagraph 2. d. is added to read as follows:

d. Phase 2C. Phase 2C shall consist of the completion of all work associated with the fabrication and installation of a scaled-down replica of the gateway monuments to be installed on the grounds of the Historic Arkansas Riverwalk of Pueblo along Central Main Street. It is specifically acknowledged and agreed that commencement of Phase 2C is conditioned upon and subject to sufficient funds being budgeted and appropriated for completion of the work contemplated under this Phase 2C. Upon satisfaction of the foregoing condition precedent, the City will issue a Notice to Proceed with respect to Phase 2C. Artist must begin Phase 2C promptly upon receipt of the Notice to Proceed and must fully complete Phase 2C prior to the completion of work required under Phase 2B.

4. A new Subparagraph 2. e. is added to read as follows:

d. Phase 2D. Phase 2D shall consist of the completion of all work associated with the fabrication and installation of lettering on the gateway monuments located on the Dillon Drive Flyover Bridge and informational/interpretive plaques on the replicas of the gateway monuments which are installed on the grounds of the Historic Arkansas Riverwalk of Pueblo along Central Main Street. It is specifically acknowledged and agreed that commencement of Phase 2D is conditioned upon and subject to sufficient funds being budgeted and appropriated for completion of the work contemplated under this Phase 2D. Upon satisfaction of the foregoing condition precedent, the City will issue a Notice to Proceed with respect to Phase 2D. Artist must begin Phase 2D promptly upon receipt of the Notice to Proceed and must fully complete Phase 2D prior to the completion of work required under Phase 2B.

5. Paragraph 11 of the Agreement is amended to update the name and contact information for notices and correspondence submitted to the City as follows:

If to City:
Andrew Hayes
Director of Public Works
211 E. D Street
Pueblo, CO 81003

6. Subparagraphs 8. a., 8. b., 8. c., and 8. d. shall remain unchanged, but the text of Paragraph 8 of the Agreement is deleted and replaced in its entirety to read as follows:

8. Contract Compensation. City will pay to Artist as full compensation for all services required to be performed by Artist for completion of Phase 1 under this Agreement, except for services for changes to scope of work by City, an amount not to exceed \$59,580.00 in the aggregate. City will pay to Artist as full compensation for all services required to be performed by Artist for completion of Phase 2A of this Agreement, an amount not to exceed \$511,778.00 ("Phase 2A Sum") in the aggregate. City will pay to Artist as full compensation for all services required to be performed by Artist for completion of Phase 2B of this Agreement, an amount not to exceed \$343,425.00 ("Phase 2B Sum") in the aggregate. City will pay to Artist as full compensation for all services required to be performed by Artist for completion of Phase 2C of this Agreement, an amount not to exceed \$24,000.00 ("Phase 2C Sum") in the aggregate. City will pay to Artist as full compensation for all services required to be performed by Artist for completion of Phase 2D of this Agreement, an amount not to exceed \$30,000.00 ("Phase 2D Sum") in the aggregate. Partial payments not to exceed ninety percent (90%) of amounts invoiced by Artist or such lesser percent that the City deems reasonable to protect City's interests shall be authorized as follows:

7. Exhibit A to this Amendment No. 3 shall replace any previous fee schedules and cost associated with the Agreement. Artist agrees that Owner shall not be obligated to pay any charges, costs, or fees in excess of the costs contained therein unless said fee schedule is amended in the future in writing or through the Change Order process outlined within the Agreement. Artist shall complete the installation in accordance with the terms of the Agreement and any and all prior amendments thereto.

8. This Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

9. Except as expressly modified by this Amendment No. 3, the Agreement to include Amendment No. 1 and Amendment No. 2, shall remain in full force and effect. Except as modified by this Amendment No. 3, any obligations to be performed under the Agreement, including Amendment No. 1 and Amendment No 2, by either party are not waived nor excused in any manner but shall be performed in accordance with the terms and conditions of the Agreement as it existed prior to this Amendment No. 3.

10. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document with the same effect as if all Parties had signed the same original. The Parties further agree that transmission of this Amendment by any electronic format, telecopy or via email in a PDF format, shall be deemed transmission of the original Amendment for all purposes. Electronic signatures shall be deemed valid and binding to the same extent as the original.

IN WITNESS WHEREOF, the Parties to this Amendment No. 3 have set forth their hand, to be effective as of the effective date.

KEN WILLIAMS ARTIST

By: _____
Kenneth Williams

CITY OF PUEBLO, A MUNICIPAL CORPORATION

By: _____
Naomi C. Hedden, Director of Purchasing

Attest: _____
City Clerk

[S E A L]

Balance of appropriation exists for this contract and funds are available.

Director of Finance

Approved as to form.

City Attorney

Exhibit A - Fee Schedule and Payment Status as of the Effective Date of Amendment No. 3

Phase	Scope Description	Cost of Services	Percent Complete	Invoiced to Date	Paid to Date
Phase 1	Design and development of construction plans	\$ 59,580.00	100.00%	\$ 59,580.00	\$ 59,580.00
Phase 2A	Construction of the monument in the east roundabout	\$ 511,778.00	100.00%	\$ 511,778.00	\$ 511,778.00
Phase 2B	Construction of the monument in the west roundabout	\$ 343,425.00	0.00%	\$ -	\$ -
Phase 2C	Fabrication and installation of replica monuments	\$ 24,000.00	100.00%	\$ 24,000.00	\$ 24,000.00
Phase 2D	Fabrication and installation of lettering and plaques	\$ 30,000.00	0.00%	\$ -	\$ -
CONTRACT TOTALS		\$ 968,783.00	61.45%	\$ 595,358.00	\$ 595,358.00



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Lori Pinz, Director Information Technology
Chris Noeller, Chief of Police

SUBJECT: A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A SOFTWARE LICENSE AND SUPPORT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND CHENOSA SYSTEMS CORPORATION, A NEW JERSEY CORPORATION DOING BUSINESS AS PROPHOENIX, AND A RELATED SOFTWARE ESCROW AGREEMENT, FOR THE SOFTWARE LICENSING AND INSTALLATION OF A NEW POLICE DEPARTMENT RECORD MANAGEMENT AND COMPUTER-AIDED DISPATCH SYSTEM, AS AUTHORIZED BY SECTION 603(C)(1)(C) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

SUMMARY:

This Resolution approves the attached Software License and Support Agreement between the City of Pueblo and Chenosa Systems Corporation, doing business as ProPhoenix, for the Police Department's new Record Management and Computer-Aided Dispatch systems. Also attached is an incidental Software Escrow Agreement with National Software Escrow, Inc. needed to effectuate certain terms of the Software License and Support Agreement. Payment is authorized by Section 603(c)(1)(C) of the American Rescue Plan Act ("ARPA") and U.S. Treasury Final Rule 31 CFR 35.6.

PREVIOUS COUNCIL ACTION:

By Resolution 14854, approved on April 11, 2022, the City Council established and approved Project No. CI2113 authorizing payment for 15 governmental service projects authorized by Section 603(c)(1)(C) of ARPA and U.S. Treasury Final Rule 31 CFR 35.6.

BACKGROUND:

Central Square's One Solution was adopted by the City of Pueblo's Police Department

(PD) in 2008. PD utilizes One Solution software applications for both its Record Management (RMS) and Computer-Aided Dispatch (CAD) systems. Central Square has chosen to discontinue these products. In February 2022, a Request for Qualification, with a subsequent Request for Proposal (RFP), process was conducted. The RFP project review committee selected ProPhoenix's RMS and CAD systems to replace the One Solution products. The City must complete the conversion to the new systems by the end of 2024, and it is anticipated this implementation will take twelve (12) months from the date of project kick-off to completion. The committee's final selection was driven by the improvements to inter-agency response, coordination, connectivity, and communications. The newer systems have powerful analytics that will assist in the delivery of services and provide real-time situational awareness allowing PD to better address the increase in crime/violent crime and crime intervention. New technology for "mobile" operations provides patrol with the ability to improve the remote work capabilities in the field, processing evidence that would normally require more personnel and longer processing times. It would aid in the performance of all tasks, especially the enforcement of public health orders by streamlining the field operations process. PD would be able to better coordinate the delivery of both emergent and non-emergent services to the public and provide for increased public communications and increased efficiency in record keeping, which would have proven useful during the Covid-19 pandemic. In addition, ProPhoenix offers compliance with HB 217 mandates for recording contact information and reporting data to the state.

The total purchase of these systems is \$2.0 million dollars. This purchase will be funded using ARPA lost revenue / governmental services funding as approved by Council in April 2022, and E-9-1-1 Funds from Project E9AN01 – Computer Equipment, Software, and Support.

FINANCIAL IMPLICATIONS:

The total cost is two million (\$2.0M) dollars with subsequent years of annual maintenance and support costs in the amount of \$143,730.60 (with expected five percent (5%) annual increases), to be budgeted and appropriated during the annual budgeting process.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

If City Council does not approve this Resolution, the City of Pueblo Police Department will not be able to replace or continue to receive support and maintenance on their current systems. System failures will have catastrophic impact to mission critical police and fire services provided to the community.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Pueblo Software License and Support Agreement
2. Prophoenix - Pueblo Proposal
3. NationalSoftwareEscrow

RESOLUTION NO. 15198

A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A SOFTWARE LICENSE AND SUPPORT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND CHENOSA SYSTEMS CORPORATION, A NEW JERSEY CORPORATION DOING BUSINESS AS PROPHOENIX, AND A RELATED SOFTWARE ESCROW AGREEMENT, FOR THE SOFTWARE LICENSING AND INSTALLATION OF A NEW POLICE DEPARTMENT RECORD MANAGEMENT AND COMPUTER-AIDED DISPATCH SYSTEM, AS AUTHORIZED BY SECTION 603(C)(1)(C) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

WHEREAS, competitive qualifications and bids for Project E9AN01 for the City of Pueblo Police Department's Record Management and Computer-Aided Dispatch systems have been received and examined;

WHEREAS, the proposal of Chenosa System Corporation was most supported and competitive of those bids and determined to be best aligned with the City's goals; and

WHEREAS, payment is authorized by Section 603 of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6.; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The Software License and Support Agreement ("Agreement") between the City of Pueblo, a Colorado municipal corporation, and Chenosa Systems Corporation, a New Jersey corporation doing business as ProPhoenix, for the installation and support of the City of Pueblo Police Department's Record Management and Computer-Aided Dispatch systems, 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 Mayor is further authorized to execute the Agreement by electronic signature.

SECTION 3.

In order to implement the terms of the Agreement, the Software Escrow Agreement ("Escrow Agreement") between the City of Pueblo, a Colorado municipal corporation, and Chenosa Systems Corporation, a New Jersey corporation doing business as ProPhoenix, and National Software Escrow, Inc. for the escrow of ProPhoenix software, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 4.

The Mayor is hereby authorized to execute said Escrow Agreement for and on behalf of the City, and the Mayor is further authorized to execute the Escrow Agreement by electronic signature.

SECTION 5.

The transfer of funds in the amount of \$1.2 million is hereby authorized from Project CI2113– American Rescue Plan Act for payments consistent with this Resolution.

SECTION 6.

The remaining balance of the Agreement in the amount of \$800,000 is hereby authorized to be paid from Project E9AN01.

SECTION 7.

The officers and staff of the City are authorized to perform all acts consistent with this Resolution and the attached Agreement to implement the transactions described therein.

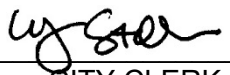
SECTION 8.

This Resolution shall become effective immediately upon passage and approval:

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

SOFTWARE LICENSE AND SUPPORT AGREEMENT

This SOFTWARE LICENSE AND SUPPORT AGREEMENT ("Agreement") is entered into this _____ of _____, 2023 by and between Chenosa Systems Corporation, a New Jersey corporation doing business as "ProPhoenix," with its principal place of business at 502 Pleasant Valley Avenue, Moorestown, NJ 08057 ("ProPhoenix"), and the City of Pueblo, Colorado, a Municipal Corporation, with its principal place of business at 1 City Hall Place, Pueblo, CO 81003 ("Licensee" or "Customer").

In consideration for the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree that ProPhoenix will provide, and Licensee will accept, the software and services described in the proposal described below and attached to this Agreement as Appendix A (the "Proposal"), in exchange for the fees set forth in the Proposal and pursuant to the terms and conditions set forth in this Agreement.

THE PROPOSAL INCORPORATED INTO THIS AGREEMENT IS:

Title: ProPhoenix Software for ProPhoenix CAD, RMS and WDA Mobile Software

Proposal: 21-00079

Date: January 09, 2023

ADDITIONAL TERMS AND LICENSE RESTRICTIONS:

Number of licensed Sites: 1

PAYMENT TERMS: 45 days from invoice date. Final costs may vary based upon the services that are billed as incurred.

Payment Milestones	Payment	When Invoiced
1. Project Initiation	\$ 381,913.00	Completion of Initiation Phase
2. Project Planning	\$ 195,956.50	Planning Stage Phase 1 Completed
3. Implementation Phase	\$ 381,913.00	Implementation Stage Phase I
4. Implementation Phase	\$ 195,956.50	Implementation Phase Completed
5. Go Live Ready	\$ 20,000.00	Go Live Ready Phase Completed
Total	\$ 1,175,739.00	

Subsequent Year Software and Support Fees begin (1) one year from date shown below, unless additional services, modules, or licensing have been incurred, then Annual Support fees will be adjusted to reflect any additional or deleted items or services.

Support Year	Annual Support Fee	When Invoiced
Year 1	\$ 143,730.60	Waived
Year 2	\$ 150,717.13	1 st Anniversary of Software Installation
Year 3	\$ 158,462.99	2nd Anniversary of Software Installation
Year 4	\$ 166,386.14	3 rd Anniversary of Software Installation
Year 5	\$ 174,705.45	4 th Anniversary of Software Installation
Year 6	\$ 183,440.72	5 th Anniversary of Software Installation
Each year thereafter	Limited to 3% maximum increase over prior year's total.	

...

The parties agree to the terms and conditions of this Software License and Support Agreement as of the date set forth above.

PROPHOENIX CORPORATION:

CUSTOMER: CITY OF PUEBLO, COLORADO

By: _____ By: _____

Name: Jeffrey Reit Name: _____

Title: Executive Vice President Title: _____

Date: _____ Title: _____

Date: _____

Delivery Address, if different from above:

TERMS AND CONDITIONS

PART I. SOFTWARE LICENSE TERMS

Capitalized terms (shown in bold at their first use in this Agreement) are defined in Section 14.

1.0 LICENSE AND SOFTWARE USE

1.1 ProPhoenix grants Licensee a non-exclusive license to install and use the **Software** in object code form only and to use the **Documentation**, as described in this Section 1. The Software is being licensed, not sold, to Licensee by ProPhoenix for use only under the terms of this Agreement, and ProPhoenix reserves all rights not expressly granted to Licensee.

1.2 Licensee may:

- A. Install the Software on a single **Server** (with the option to purchase rights for multiple Servers for additional fees) or any additional number specified in the Proposal, on the initial pages of this Agreement, or in an exhibit, amendment or schedule hereto), using only one (1) production database and/or unlimited training databases (unless otherwise specified in the Proposal, on the initial pages of this Agreement, or in an exhibit, amendment or schedule hereto), to process information internally for the governmental and public safety functions of Licensee.
- B. Use the Software subject to the limitations on the number and type of sites or **Users** specified in the Proposal, on the initial pages of this Agreement, or in an exhibit, amendment or schedule hereto.
- C. Make one (1) backup copy of the Software to protect against malfunction or damage to Licensee's computer systems or the media on which the Software is stored.
- D. Physically duplicate the Documentation for archival purposes and for individuals employed by Licensee who are directly responsible for the daily ongoing operation of the Software.
- E. Make an appropriate number of copies of the Software and Documentation for internal use, training, and testing purposes.
- F. Permit Licensee's employees and agents to use the Software and Documentation on Licensee's behalf; Licensee will remain responsible for the compliance with these terms by third parties using the Software or Documentation with Licensee's permission.

If Licensee desires to use any Software or Documentation for purposes that exceed the restrictions set forth in Sections 1.2 and 1.3 of this Agreement, then an additional license will be required.

1.3 Licensee may not:

- A. Use the Software for any purpose other than for its governmental, public safety, and other legal functions.
- B. License, sell, rent, lend, sublicense, or lease the Software or Documentation, but may permit the use of the Software

for the benefit of any third party. The foregoing does not restrict Licensee's permission to grant access to the Software to Users who are employed by third parties, when performing work for the benefit of Licensee and its residents.

- C. Modify or attempt to modify the Software or any part of it without permission from ProPhoenix.
- D. Reverse engineer, decompile, or disassemble the Software (or attempt to do so) unless this Agreement permits it.
- E. Copy any part of the Software or Documentation unless this Agreement permits it.
- F. Merge, associate, or combine, or attempt to merge, associate, or combine, the Software with or into any third party software other than the **Third Party Software** or as otherwise set forth in the Proposal.
- G. Remove or destroy any proprietary markings or legends, including copyright and trademark notices, appearing on or contained within any Software or Documentation.
- H. Export or re-export the Software and/or associated documentation in violation of the United States export rules and regulations.

1.4 The Software, Documentation, and any other materials accompanying this Agreement may be provided by ProPhoenix, as mutually agreed to by the parties, on disk, in read only memory, via an FTP website download, or on any other media or in any other form.

1.5 ProPhoenix and its **Third-Party Software Providers** (if any) retain all right, title, and interest in the Software and Documentation (including copies made by Licensee), except for those rights expressly granted to Licensee under this Agreement. Licensee acknowledges that ProPhoenix, its Third-Party Software Providers (if any), and their successors and assigns own all proprietary rights in the Software and Documentation, including copyrights and valuable trade secrets.

1.6 The Third-Party Software Providers are beneficiaries of this Agreement and may enforce this Agreement only to the extent necessary to protect their rights in the Third-Party Software. Licensee acknowledges the rights of the Third Party Software Providers in their respective software and related data and materials, including, but not limited to, trademarks and copyrights. ProPhoenix expressly indemnifies and holds the Licensee harmless against all claims, suits, and damages by Third Party Software providers arising out of or caused by breach of such Third Party Software license agreements.

1.7 If requested by ProPhoenix, Licensee will submit an annual certification, signed by an officer or authorized representative, specifying the number of users and number and location of all copies of the Software that Licensee has. ProPhoenix may also, once annually, upon reasonable prior notice and during regular business hours, and subject to Licensee's security policies and regular business practices, audit compliance with the license restrictions; to that end, Licensee may permit ProPhoenix to inspect Licensee's computer system on which Licensee is operating the Software upon seventy-two (72) hours' prior written notice to Licensee.

Commented [TG8]: Is there a third party software this is going to have to integrate with? i.e. Tyler, etc.

Commented [LP9R8]: Yes we will do this. I think this is meaning they will provide our documentation to us. But no one else.

Commented [TG10R8]: ProPhoenix, please advise.

Commented [PH11R10]: The project will be interfacing with a number of third party application which are identified within the proposal. Any and all third party interfacing or integration must be approved by and contracted through ProPhoenix.

Commented [TG12R8]: Thank you, small change based on this response.

Commented [RS13R8]: OK

Formatted: Font: Not Bold

Commented [TG1]: Doesn't this conflict with a Site license? Is there only one server?

Commented [LP2R1]: We are setting this up with the High Availability option from the RFP and purchasing Sql Enterprise for two hosts. This was communicated and should have been included in the costs? Can we get some clarification?

Commented [PH3R2]: A high availability environment is part of the project quote

Commented [TG4]: What would 'exceed the restrictions'?

Commented [RS5R4]: Those set forth in sec. 1.3.

Commented [RS6R4]: Apologies for a late change - we also need to refer to Section 1.2, where there are other restrictions.

Commented [TG7R4]: Accepted.

2.0 SERVICES. Licensee is responsible for the installation and configuration of the Software, training, on-site services and other professional services, unless either (a) those services are described in the Proposal or (b) Licensee has agreed in writing to purchase those professional services from ProPhoenix pursuant to a separate agreement, at ProPhoenix's standard rates in effect at the time. If on-site services (or training anywhere other than at a ProPhoenix facility) are requested, Customer will not reimburse ProPhoenix for its travel expenses, without the prior written approval of Customer.

PART II. SUPPORT AND MAINTENANCE TERMS

3.0 SOFTWARE SUPPORT

3.1 During any period during which Licensee has purchased Software Support, ProPhoenix will provide Licensee with the following Software Support:

- A. **Enhancements** and related documentation are made available at no additional charge to all licensees of ProPhoenix who have purchased support and maintenance. Nothing herein shall be construed as requiring ProPhoenix to provide Enhancements that are not Error Corrections and generally not available to other clients of ProPhoenix. Any product that is a new product and beyond the scope of this Agreement will not be included in Software Support. Where ProPhoenix makes a new product available, Licensee may obtain such product from ProPhoenix pursuant to its regular purchasing practices.
- B. Telephone, online, and e-mail consultation services, for the **Support Environment** including but not limited to problem solving, bug reporting, documentation clarification, and technical guidance for the Software. Telephone and e-mail consultations will be available during the hours of 9:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday, exclusive of ProPhoenix holidays, and pager support for **Critical Errors** will be available at all times.
- C. Online support options are available on a 24 hours-a-day, 7 days-a-week basis through the Internet at <http://support.prophoenix.com>. The information available at this website will, at ProPhoenix's option, include, timesaving technical tips, online support, a download library of Enhancements, and Documentation associated with the Software. ProPhoenix will endeavor to post its latest technical notes on this website.

3.2 ProPhoenix will use reasonable efforts to respond to Licensee within two (2) hours after contact by Licensee's authorized personnel for any **Critical Errors**, within two (2) hours for any **High Errors**, and within two to three (2-3) business days for all other issues. ProPhoenix will expend commercially reasonable efforts to provide an **Error Correction** designed to solve or bypass a reported **Error**. All Error Corrections, including any new products that must be utilized to fix an Error, will be provided free of charge. ProPhoenix will reasonably determine the priority level of Errors and use the following protocol for **Critical** or **High Errors**: (1) promptly assign specialists to correct the Error on an expedited basis; (2) provide ongoing communication on the status of an Error Correction; and (3) commence efforts to provide a temporary workaround or fix.

3.3 Requests for non-critical support outside normal support hours may be made by leaving a voicemail on the ProPhoenix support number, or by sending an email, fax, or online request to ProPhoenix. ProPhoenix will use commercially reasonable efforts

to respond to requests for Software Support outside of normal hours within eight (8) business hours of its actual receipt. After hours support for non-critical issues is included with the cost of Annual Support and will be at no additional charge unless otherwise agreed to.

3.4 Software Support will be provided remotely via an online connection, subject to Licensee's security procedures. **Onsite** Software Support, including all diagnostic and remedial assistance on-site at Licensee's facilities or other remote locations is not included within the Software Support provided hereunder. Such diagnostic and remedial assistance at Licensee's facilities or other remote locations may be obtained by Licensee by purchasing separate consulting services from ProPhoenix at ProPhoenix's then-existing rates, plus expenses.

4.0 TERMS OF PERFORMANCE OF SOFTWARE SUPPORT SERVICES

4.1 ProPhoenix will be obligated to perform Software Support for the Software only if it remains unmodified, or modified only by ProPhoenix or its agents, or modified at the direction of or with the approval of ProPhoenix. Support does not include (i) any work related to providing consultation about or ensuring Software compatibility with application servers, platforms, network configurations, customizations (unless additional Support for customized versions is purchased), web browsers, databases other than those with which the Software is then currently developed to work, or versions of any of the foregoing, (ii) database performance tuning, (iii) Licensee-specific application usage assistance, or (iv) hardware maintenance.

4.2 ProPhoenix will not provide Software Support with respect to problems with the Software or other Product which results from any grossly negligent conduct or misuse by Licensee, its employees, or agents, including without limitation, (1) a failure to maintain proper environmental conditions; or (2) a failure to use the Software in accordance with the applicable Documentation.

4.3 Licensee will be responsible for the following:

- A. Installing the Software as well as any Enhancements to the Software, unless Licensee has retained ProPhoenix to complete the installation. Where Licensee installs any software or performs any installation activities, it must confirm the compatibility of such software prior to installation, and Licensee always remains responsible for setting up and configuring its secure connections among hardware and software components, at its own expense, to satisfy Licensee's particular security requirements.
- B. Keeping its hardware and network in proper working order.
- C. Maintaining trained designated representatives with a working knowledge of Licensee's programs and system hardware.
- D. Promptly notifying ProPhoenix of suspected Errors or needs for service, and upon request, providing to ProPhoenix written documentation with respect to any such Errors. In order to maintain its right to obtain Software Support, including remote troubleshooting and other diagnostic and repair functions, Licensee must provide ProPhoenix with access (via secure Internet connection), subject to Licensee's security procedures, to servers running the Software whenever necessary to troubleshoot or fix a specific problem that has arisen and for which assistance has been requested pursuant to this Agreement. Licensee will communicate with ProPhoenix with respect to the Software Support through its designated representative

Commented [TG23]: How is this different than other support? Why is it at additional cost? When would we need this?

Commented [TG24R23]: Please address this question when you can.

Commented [PH25R24]: ProPhoenix Support is provided through on-line remote support, in the event the customer requests ProPhoenix supports staff to come on-site to the customer's location/facility, there could be additional charges.

Commented [TG26R23]: Understood. Made a change based on this response and because the current language, saying Software Support does not include Software Support, is difficult to understand.

Commented [PH27R23]: The sentence refers specifically and exclusively to onsite support

Commented [RS28R23]: Change is OK

Commented [TG14]: Little confused by this. It sounds like Enhancements are general fixes and updates across the board. What is an example of one that would not be provided?

Commented [RS15R14]: Enhancements are new features, not fixes.

Commented [TG16R14]: Per the definition in section 14, they do include error corrections...

Commented [RS17R14]: Good catch. See the correction.

Commented [TG18R14]: Accepted

Commented [TG19]: Are 'business hours' meant to refer to the 9-5 time frame in section 3.1(B), or how is it different than regular hours? What if a High Error occurs outside those hours, would the City have to wait until the next business day? Because this software is for emergency services, we cannot wait longer periods of time for support. Issues must be solved as soon as possible.

Commented [LP20R19]: Pretty standard

Commented [TG21]: Lori, does this timing work for you? As this relates to emergency services, I would think a faster response time would be necessary.

Commented [LP22R21]: Pretty standard

or their designee.

E. All maintenance and support of any network linked to the CPU containing the Software.

F. If license is for multi-jurisdictional use, the Licensee is responsible for providing the initial first line support and entering each electronic CRM work request for all participating agencies in the multi-jurisdictional installation.

4.4 If Software Support is terminated, then (a) support of all types, including but not limited to Enhancements, operational support, and telephone or email support will only be available on a non-priority basis at ProPhoenix's time and material rates as then in effect, and (b) ProPhoenix reserves the right to enter into a new Software Support agreement with Licensee only on re-negotiated terms.

4.5 In the event that Licensee has (i) elected to discontinue Support services or (ii) breached Licensee's payment obligations under this Agreement, ProPhoenix may elect to withhold Software Support upon thirty (30) days prior written notice to Licensee, and this action by ProPhoenix would not constitute a breach of this Agreement or a waiver of Licensee's breach.

4.6 A version of the Software will be deemed obsolete one hundred twenty (120) days following receipt by Licensee of a new Enhancement superseding the prior version of the Software. ProPhoenix will not support obsolete versions of the Software, provided, however, that if installation of the new version requires Licensee to pay a new purchase price, Licensee may choose not to purchase the new version and shall receive support for the most recent Software version that did not require purchase until such time as Licensee ends use of that version. In no event, however, shall ProPhoenix be required to support an obsolete version of the Software for more than twelve (12) months from the date of release of an Enhancement superseding the prior version of the Software and not requiring purchase by Licensee.

4.7 ProPhoenix relies on its electronic Customer Relationship Management (CRM) system that Licensee is required to use. ProPhoenix shall keep an accurate event log in the CRM electronic supporting system showing every CRM reported incident of trouble, every action taken by ProPhoenix personnel with respect to each such incident, as well every report of trouble by customer to the ProPhoenix CRM, including time and resolution. Licensee may at any time during a Software Support period access and view the CRM for complete information relating to the foregoing.

If Licensee does not use the ProPhoenix CRM, Licensee shall keep an accurate event log for any support requests not submitted via the ProPhoenix CRM electronic supporting system showing every incident of trouble, every action taken by Licensee's personnel with respect to each such incident, as well as every report of trouble by Licensee to ProPhoenix, including time of fix and/or resolution. Upon request by ProPhoenix, Licensee shall provide a report to ProPhoenix relating to the foregoing.

4.8 No action by ProPhoenix in the performance of Software Support shall be deemed to expand the scope of Software Support as defined herein.

4.9 Licensee is responsible for the installation and configuration of the Software, training, on-site services and other professional services, unless otherwise set forth in the Proposal. See Section 2.0 of this Agreement. Ongoing or follow up training is not considered Support or Maintenance. Additional training will be provided and invoiced at the standard rates in effect at the time.

PART III. PAYMENT AND OTHER GENERAL TERMS

5.0 FEES AND INVOICES

5.1 The payments set forth in the Proposal are due within forty-five (45) days of an accomplished milestone. Once Customer accepts the installation of the Software and indicates the Software is performing all functions necessary to Customer's operations, Licensee shall be responsible for the payment of all installation charges, as set forth in the Proposal, but not for any incidental expenses associated with such installation, such as travel and materials, without Customer's prior written consent. If Licensee makes an advance payment for installation or configuration of the Software, training, on-site services or other professional services pursuant to the Proposal, that amount will be credited to fees for such services and Software license and maintenance fees.

5.2 The license fee for additional Sites or Concurrent Users will be billed at a negotiated rate only after being agreed to between the parties through a mutually signed writing. Licensee must notify ProPhoenix no later than forty-five (45) days after the number of Sites or Concurrent Users exceeds the contracted number. The license fee for additional Sites and Concurrent Users added will be due and payable within forty-five (45) days after agreed upon between the parties through the signed writing.

5.3 All invoices are due and payable in US dollars upon receipt. Late payment charges will not be imposed.

5.4 Software Support for any Software Support periods that Licensee agrees to purchase after the initial 12-month Software Support period (to the extent set forth in the Proposal, on the initial pages of this Agreement or in an exhibit, amendment or schedule hereto) will be invoiced annually and will be paid in full within forty-five (45) days of Licensee's receipt of invoice unless Licensee intends to not renew the Software Support or Licensee did not appropriate funds for the purpose.

5.5 Software Support Fees for any additional Site or Concurrent Users will be subject to negotiation and will be prorated for any partial year from the date on which the number of Sites or Concurrent Users exceeded the contracted number.

5.6 All fees and charges listed in the Proposal, on the initial pages of this Agreement, or in an exhibit, amendment or schedule hereto do not include sales, use, value-added and similar taxes. Licensee is a tax-exempt entity and shall not be liable for any tax or the pass through of any tax. In addition, the costs of Third Party Software may increase outside the control of ProPhoenix; if this occurs, Customer will not be liable for such increase.

6.0 TERM

Software Support may be terminated by either party after upon completion of a 12-month Software Support period by providing at least sixty (60) days prior written notice before the end of the period. If not terminated, Parts II and III of this Agreement will continue in effect for the duration of the additional Support Periods, and Licensee will be obligated to pay the mutually agreed to fee specified in the Proposal, on the initial pages of this Agreement, or in an exhibit, amendment or schedule hereto.

7.0 TERMINATION

7.1 This Agreement may be terminated as set forth in this Section 7 (or Section 9 below).

7.2 If either party defaults in the performance of any material obligations under this Agreement, and such default is not corrected within thirty (30) business days after receipt of detailed and specific written notification of the default from the non-defaulting party, then the non-defaulting party may terminate this Agreement (or, if applicable, individual Software license(s)) immediately upon delivery of the written notice of termination to the defaulting party.

7.3 ProPhoenix may terminate this Agreement and any license granted under Part I immediately if Licensee materially violates Section 1 or 11 of this Agreement.

7.4 Licensee may terminate this agreement for convenience at any time and without default upon sixty (60) days prior written notice to ProPhoenix, provided that Licensee's termination for convenience shall not (a) end Licensee's obligation to pay any fees accrued prior to the effective date of termination-or (b) entitle Licensee to a refund of any pre-paid fees for periods after the effective date of termination.

7.5 Within one month after the date of termination of this Agreement and/or license granted under Part I, Licensee will return to ProPhoenix or destroy (at ProPhoenix's option) the original and all copies, in whole or in part as then remaining, in any form, of all Software, Documentation and other **Confidential Information** that are the subject of such termination, and an officer of Licensee will certify to the foregoing in writing delivered to ProPhoenix. Within one month after the date of termination of this Agreement and/or license granted under Part I, ProPhoenix will provide Licensee with a copy of any of Licensee's data in a readable format and provide Licensee with a data dictionary or entity relationship diagram, as applicable, and assist with migrating said data to any subsequent software or system designated by Licensee.

7.6 Licensee will pay all undisputed charges required under this Agreement incurred prior to the date of termination for services actually provided.

8.0 ASSIGNMENT

8.1 Without the prior written consent of ProPhoenix, Licensee's rights to any Software and Documentation under this Agreement may not be assigned, sublicensed, or otherwise transferred, voluntarily or otherwise, by Licensee.

8.2 Without Licensee's prior written consent, ProPhoenix's obligations under this Agreement may not be assigned or otherwise transferred, voluntarily or otherwise, except in connection with the sale of its business by merger, stock sale, or transfer of a substantial portion of its assets.

9.0 WARRANTY AND INDEMNITY

9.1 ProPhoenix warrants that the Software will operate in substantial conformity with the Documentation for one year after the date of Delivery of the relevant Software to Licensee. Licensee's exclusive remedy and ProPhoenix's sole liability under this warranty will be for ProPhoenix to correct any failure of any such copies of the Software to perform as warranted, if such failure is reported to ProPhoenix within the warranty period and Licensee, at ProPhoenix's request, will make reasonable efforts to provide ProPhoenix with sufficient information (which may include secure access to such copies of the Software on Licensee's computer system by ProPhoenix personnel) to reproduce the defect in question. This warranty does not apply to the Software or any Third Party Software that has been altered or

modified in any way by Licensee or someone other than ProPhoenix or its authorized agents, unless ProPhoenix provided authorization for the modification.

9.2 ProPhoenix warrants that the Software, when used within the scope of this Agreement, does not infringe any United States patent, copyright or trade secret. ProPhoenix will defend and indemnify at its expense any action brought against Licensee to the extent based on a claim that the Software, when used within the scope of this Agreement, infringes a U.S. patent, copyright, or trade secret. ProPhoenix will pay any costs and damages finally awarded against Licensee in such action that are attributable to such claim, provided that Licensee promptly notifies ProPhoenix in writing of the claim, allows ProPhoenix to control the defense, provides ProPhoenix with the information and assistance necessary for the defense and/or settlement of the claim, and does not agree to any settlement without ProPhoenix's prior written consent. Should the Software become, or in ProPhoenix's opinion be likely to become, the subject of any claim of infringement, ProPhoenix may at its option (i) procure for Licensee the right to continue using the Software, (ii) replace or modify the Software so as to make it non-infringing, or, if (i) and (ii) are not commercially reasonable, (iii) terminate the license granted hereunder and refund the remainder of the amounts paid for such license, using straight-line depreciation based on a five (5)-year useful life. ProPhoenix will have no liability for any claim of infringement based upon (i) use of other than the latest unmodified release of the Software available to Licensee, where such release would be provided at no additional cost, if such infringement would have been avoided by the use of such release, (ii) use or combination of the Software with other programs or data unknown by ProPhoenix if such infringement would not have occurred without such use or combination, or (iii) use of the Software after receiving notice from a third party that the Software infringes a patent, copyright, or trade secret right of a third party unless prompt written notice thereof is given to ProPhoenix.

10.0 LIMITATIONS

10.1 OTHER THAN THE WARRANTIES EXPRESSLY STATED IN THIS AGREEMENT, PROPHOENIX NEITHER MAKES NOR GRANTS ANY WARRANTIES, REPRESENTATIONS OR CONDITIONS, EXPRESS OR IMPLIED. PROPHOENIX EXPRESSLY EXCLUDES ALL IMPLIED WARRANTIES, REPRESENTATIONS AND CONDITIONS, INCLUDING SPECIFICALLY ANY AND ALL IMPLIED WARRANTIES, REPRESENTATIONS OF MERCHANTABILITY, MERCHANTABILITY, QUALITY, ACCURACY, QUIET ENJOYMENT OR FITNESS FOR ANY PURPOSE, PARTICULAR, SPECIFIC OR OTHERWISE. PROPHOENIX DOES NOT WARRANT THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE.

10.2 EXCEPT FOR ANY MATERIAL VIOLATION OF SECTION 9.2 OR SECTION 11, LICENSEE'S SOLE AND EXCLUSIVE REMEDY FOR ANY DAMAGE OR LOSS IN ANY WAY CONNECTED WITH THE SOFTWARE, THIS AGREEMENT, SOFTWARE SUPPORT OR ANY OTHER MATERIAL, INFORMATION OR SERVICES FURNISHED BY PROPHOENIX HEREUNDER, WHETHER OR NOT CAUSED BY PROPHOENIX'S BREACH OF WARRANTY, NEGLIGENCE OR ANY BREACH OF ANY OTHER DUTY, SHALL BE, AT PROPHOENIX'S OPTION, REPLACEMENT OF THE SOFTWARE, DOCUMENTATION OR ENHANCEMENTS, REPERFORMANCE OF THE SOFTWARE SUPPORT OR SERVICES, FULL REFUND, OR RETURN OR CREDIT OF THE APPROPRIATE PORTION OF ANY AMOUNTS RECEIVED BY PROPHOENIX FROM LICENSEE. EXCEPT FOR

Commented [RS29]: These changes were rejected. ProPhoenix does not allow termination for convenience where prepaid fees are refunded. The license was not priced that way. If the customer wants what is effectively a month-to-month subscription, the license fees would be higher.

PROPHOENIX'S INDEMNIFICATION OBLIGATIONS. IN NO EVENT SHALL PROPHOENIX'S LIABILITY EXCEED THE AMOUNTS RECEIVED BY PROPHOENIX FOR THE SOFTWARE AND DOCUMENTATION OR FOR SOFTWARE SUPPORT OR OTHER SERVICES UNDER THIS AGREEMENT DURING THE EIGHTEEN (18) MONTH PERIOD IMMEDIATELY PRECEDING LICENSEE'S CLAIM FOR RECOVERY, EVEN IF PROPHOENIX IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR INSTANCES OF INTENTIONAL VIOLATION OF THE OTHER PARTY'S CONFIDENTIALITY OR INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HEREUNDER, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF USE, OR THE LOSS OF DATA OR INFORMATION OF ANY KIND, HOWEVER CAUSED, OR ANY LIABILITY TO END-USERS OR TO THIRD PARTIES (EXCEPT AS SET FORTH IN SECTION 9.2), INCLUDING WITHOUT LIMITATION LOSS OF PROPERTY, PERSONAL INJURY OR LOSS OF LIFE. THE LIMITED WARRANTY AND LIMITED LIABILITY ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN PROPHOENIX AND LICENSEE. PROPHOENIX WOULD NOT BE ABLE TO PROVIDE THE SOFTWARE WITHOUT SUCH LIMITATIONS. SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO THE LICENSEE. PROPHOENIX HAS NO LIABILITY TO LICENSEE UNDER THIS AGREEMENT FOR ANY CLAIM BASED UPON LICENSEE'S USE, COMBINATION OR OPERATION OF THE SOFTWARE WITH ANY SOFTWARE NOT SUPPLIED BY PROPHOENIX, OR BASED UPON ALTERATION OF SOFTWARE BY LICENSEE OR ANYONE OTHER THAN A PROPHOENIX-AUTHORIZED REPRESENTATIVE.

11.0 CONFIDENTIALITY

11.1 Each party agrees to treat as confidential and not to disclose, publish, release, transfer, or otherwise make available to third parties (except as provided in this Agreement or required by law) any information that the other designates as confidential or proprietary ("Confidential Information"). ProPhoenix's Confidential Information includes, without limitation, its technology, processes, specifications, developments, and software programs (including the Software and Documentation), whether or not designated as Confidential Information. In addition, any Third Party Software shall be included as Confidential Information, whether or not designated as Confidential Information. ProPhoenix acknowledges and agrees that Licensee is a governmental entity subject to certain open record requirements, such as the Colorado Open Records Act. Nothing herein shall prohibit or otherwise limit Licensee's ability to comply with such laws or any court orders. This Agreement, the Proposal, and any exhibit, addendum, or schedule are expressly not confidential for said purposes.

11.2 Unless otherwise agreed in advance and in writing, in the event that Licensee or any employee or agent of Licensee suggests any improvements or modifications to the Software, Licensee acknowledges and agrees that, whether such improvements and/or modifications are implemented by ProPhoenix in whole or part, unless otherwise negotiated, it assigns all right, title and interest, including all copyrights, patents, trade secrets, and all other intellectual property rights, in any such suggestions, improvements, and modifications to ProPhoenix without payment or compensation of any kind, and that it will attempt to execute any reasonable documentation requested by ProPhoenix to memorialize such assignment. Licensee further

acknowledges and agrees that any audio or visual recording or broadcast of ProPhoenix training sessions, for any purpose other than use by Licensee, is prohibited without express written consent from ProPhoenix. To the extent permitted by law, Licensee agrees to take all reasonable precautions, including those that may be reasonably requested by ProPhoenix, to protect its Confidential Information.

11.3 ProPhoenix agrees that all records and data entered into the database or imported from previously-used computer systems operated by Licensee are and shall remain the sole property of Licensee. Licensee shall not provide, and ProPhoenix shall not, without Licensee's written consent, copy or use such records except insofar as is necessary to carry out work on behalf of or for Licensee or as otherwise pursuant to this Agreement.

11.4 Any use or attempted use of the Software or disclosure of Confidential Information in violation of the restrictions of this Section 11 is a material breach of this Agreement that will cause irreparable harm, entitling the violated party to injunctive relief in addition to all legal remedies. The obligations set forth in this Section 11 shall survive the termination of this Agreement for any reason for a period of two (2) years; provided, however, that such obligations shall not be deemed to survive only to the extent such information: (i) was a matter of public knowledge or available in published literature at the time ProPhoenix communicated this to Licensee; (ii) becomes a matter of public knowledge or available in published literature through no fault of Licensee subsequent to the time of communication thereof to Licensee; (iii) was in Licensee's possession free of any obligation of confidence at the time of the ProPhoenix communication thereof to Licensee; (iv) was rightfully communicated by a third party to Licensee free of any obligation of confidence subsequent to the time of the ProPhoenix communication thereof to Licensee; (v) was developed by officers, employees or agents of, or consultants to Licensee independently of and without reference to the Software or associated materials or documentation; or (vi) as otherwise required by law.

12.0 GENERAL

12.1 This Agreement constitutes the entire understanding between the parties with respect to its subject matter and supersedes any and all other prior understandings, statements, warranties, representations, and agreements, oral or written, relating to them, except that the terms of any RFQ or RFP set out by Licensee and replied to by ProPhoenix are incorporated herein by this reference and are binding on the parties. Licensee is not relying on any representations about the Software or any future releases of the Software other than the Documentation, unless such representations are attached in writing to this Agreement. Any amendment to this Agreement must be in writing and signed by both parties. Printed or standard terms on any order form submitted by Licensee shall not apply if, and to the extent that, they are inconsistent with this Agreement. This Agreement may be executed in multiple counterparts, which may be exchanged via electronic facsimile machines or electronic signature devices.

12.2 This Agreement will be governed by and interpreted in accordance with the laws of the State of Colorado, excluding its principles relating to conflicts of laws. 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.

12.3 Except for actions initiated by either party to this Agreement for injunctive relief to enforce its rights pursuant to Section 11, any dispute or claim arising in connection with this Agreement will be adjudicated in the appropriate courts located in

Commented [RS30]: Including this language would essentially eliminate the cap.

Commented [TG31R30]: My concern was primarily with ProPhoenix's responsibility to indemnify against IP infringement claims from third parties, as detailed in Section 9. Those lawsuits often cost millions at the low end, and if ProPhoenix's liability is capped at only 18 months worth of fees, the City could end up paying for the rest of the IP infringement case. What language would you like that excludes the cap for in such a situation?

Commented [RS32R30]: That's a fair point. I revised it to make this available.

Commented [TG33R30]: Thank you. Accepted.

the State of Colorado. It is the expressed desire of both parties, however, that a good faith effort be made to resolve all disputes prior to the resort to judicial proceedings. Accordingly, it is agreed that any dispute arising under this Agreement, including without limitation, any dispute regarding the operation of the Software, or payments due hereunder, shall be expressed to the other party in a writing that describes each dispute in detail and includes documentation sufficient to evidence the nature of the dispute. The writing shall be delivered to the other party at the address set forth at the beginning of this Agreement. The party receiving the dispute shall respond in writing within thirty (30) days and shall provide documentation supporting its response. Following such delivery and response, the parties shall engage in direct, good faith negotiations for the following thirty (30) days in an effort to resolve all disputes. If the parties are unable to reach an agreement, and in the absence of a written agreement to extend the negotiation period, either party may seek judicial relief. The existence of a dispute shall not, however, be cause for either party to avoid any obligation under this Agreement or any associated agreement, except for a disputed payment obligation.

12.4 Licensee will comply with, and at all times cooperate promptly with ProPhoenix to enable ProPhoenix to comply with, the provisions of the United States Export Administration Act, War Powers Act, or other law or Executive Order relating to control of exports or transfer of technology, and the regulations of the United States Departments of State, Commerce and Defense relating to them (in present form or as they may be amended in the future). In particular, but without limitation, the Software may not be exported or re-exported (a) into (or to a national or resident of) any U.S. embargoed countries (currently Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria), or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By using the Software, Licensee represents and warrants that Licensee is not located in, under the control of, or a national or resident of any such country or on any such list.

12.5 Notices delivered under the terms of this Agreement will be in writing and sent by prepaid certified mail, return receipt requested, or by a nationally recognized overnight courier service to the respective addresses of the parties set forth in the recitals and signature page to this Agreement. In the case of ProPhoenix, such notices will be directed to the attention of the President; and, in Licensee's case, such notices will be directed to the attention of the individual named above executing this Agreement on Licensee's behalf. Notices will be effective on the date received.

12.6 No term or provision of this Agreement will be deemed waived and no breach of this Agreement will be deemed consented to or excused, unless such waiver, consent or excuse will be expressed in writing and signed by the party claimed to have so waived, consented, or excused such term or provision.

12.7 The application to this Agreement of the United Nations Convention on Contracts for the International Sale of Goods is hereby expressly excluded.

12.8 After expiration or termination of this Agreement, all provisions relating to payment shall survive until completion of required undisputed payments. In addition, all provisions regarding scope of the license granted in Part I, audit, indemnification, warranties, liability and limits thereon, assignment and confidentiality, or protection of proprietary rights and trade secrets, shall survive indefinitely.

12.9 No failure or omission by either party to carry out or observe any of the terms or conditions of this Agreement shall give rise to any claim against that party or be deemed to be a breach

of this Agreement if such failure or omission arises, without limitation, due to act of God, insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions of any government authority or third party, industrial disputes, fire, lightning, explosion, inclement weather, pandemic, or other causes beyond the control of either party.

12.10 ELECTRONIC SOFTWARE DELIVERY. With respect to all the Software licensed by Licensee hereunder, all Software updates delivered under ProPhoenix's Support obligations under this Agreement or any programs or modules licensed by Licensee in the future, ProPhoenix shall deliver such Software, Enhancements, programs or modules via electronic software delivery over a secure VPN connection established between ProPhoenix and Licensee ("ESD"). ProPhoenix shall use commercially reasonable efforts to secure all file transfers via ESD. Licensee acknowledge that, despite such efforts by ProPhoenix to effect a secure file transfer, including using a non-public server and transferring by appointment only, there remains some level of risk of invasive activity by unknown third parties.

12.11 Nothing in this Agreement is intended, nor should it be construed, to create any rights, claims, or benefits or assume any liability for or on behalf of any third party, or to waive any immunities or limitations conferred under federal or state law, including but not limited to the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S.

12.12 Nothing in this Agreement is intended to, or shall be deemed to constitute, a partnership or joint venture between the parties, or to create any agency or partner relationship between the parties. Neither party shall hold itself out as a partner, joint venture, agent, or representative of the other under this Agreement.

12.13 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 Licensee which may arise under this Agreement 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 Agreement, including any sub-agreement, attachment, schedule or exhibit thereto, by the Licensee. Licensee may in its sole and absolute discretion terminate this Agreement for reasons of non-appropriation immediately upon written notice without causing default or breach.

12.14 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.

12.15 In consideration for the terms of this Agreement, including the Limitations, ProPhoenix warrants and guarantees that, consistent with the requirements of Section 6-1-713.5, C.R.S., as amended, ProPhoenix has implemented and shall maintain reasonable security procedures and practices that are: (a)

appropriate to the nature of the personal identifying information disclosed to ProPhoenix; and (b) reasonably designed to help protect the personal identifying information from unauthorized access, use, modification, disclosure, or destruction. ProPhoenix shall have primary responsibility for implementing and maintaining reasonable security procedures and practices appropriate to the personal identifying information.

13.0 SOURCE CODE ESCROW OPTION

13.1 ProPhoenix will deposit the **Source Code** for the Software with a certified third party escrow agent, at Licensee's sole expense, incorporated into the price of this Agreement. The certified third party escrow agent will be selected and paid by Licensee, subject to ProPhoenix's approval, where such approval will not be unreasonably withheld. Licensee will provide ProPhoenix with any documents necessary to establish the escrow agreement. The purpose of the source code escrow is to provide for retention, administration and controlled access and release of the deposit materials to Licensee under certain conditions listed below (the "Escrow Release Events"). The Escrow Release Events shall consist of the following:

- A. If ProPhoenix or a successor that assumes its obligations under this Agreement ceases to transact business; or
- B. If ProPhoenix or a successor that assumes its obligations under this Agreement ceases to provide support for the Software as required by this Agreement and does not offer to Licensee another software product to perform the same or similar functions as the Software; or
- C. If ProPhoenix triggers any of the termination events described in Section 7.

13.2. In the event of a release of the Source Code to Licensee, Licensee shall have the limited right and license to use, copy, and modify the Source Code solely for the purposes of maintenance and support of the software for Licensee's internal use only. Such license shall be non-exclusive and non-transferable. Licensee agrees that the Source Code delivered under this Section is subject to the confidentiality restrictions recited elsewhere in this Agreement. Notwithstanding any terms to the contrary, Licensee may disclose the Source Code to consultants and agents for the sole purpose of supporting and maintaining the Software, provided such consultants and agents agree to be bound by the confidentiality restrictions which are applicable to Licensee hereunder.

13.3. In addition, ProPhoenix will, at Licensee's sole expense, deposit the Source Code with an escrow agent pursuant to an escrow agreement between ProPhoenix and escrow agent, a copy of which will be provided to Licensee at Licensee's request, and ProPhoenix shall maintain such escrow, and update the Source Code, for the period that Licensee purchases Software Support. The escrow agreement shall require release of the source code to Licensee solely upon the occurrence of the Escrow Release Events. Licensee will be responsible for the full expense associated with facilitating the Source Code deposit and establishing the escrow relationship. Licensee acknowledges that the Source Code is a valuable commodity that cannot be transported through mail delivery. Licensee may select a provider to facilitate secure delivery of the Source Code, subject to ProPhoenix's approval. Additionally, no later than thirty (30) days after the execution of this Agreement, Licensee shall be added as a beneficiary to the escrow agreement. Licensee shall use its reasonable efforts to promptly provide the escrow agent with executed documents as may be required of Licensee pursuant to the escrow agreement. Licensee shall be responsible for payment of all annual fees related to the escrow agreement and Licensee

shall be responsible for payment of the fees applicable to technical verification of the Source Code. ProPhoenix and Licensee desire the escrow agreement to be supplementary to this Agreement, pursuant to 11 U.S.C., § 365(n) (Bankruptcy; executory contracts and unexpired leases).

14.0 DEFINITIONS. For purposes of this Agreement, the following terms shall be defined as follows:

"CAD Client" means a single computer terminals at a licensed Site, which may be used by one Concurrent User at a time or may be used by several Concurrent Users at different times.

"Concurrent User" means any individual user using or having access to the Software at a single point in time.

"Confidential Information" is defined in Section 11.

"Critical Error" means an Error that causes the Software production system to go down or prevents Licensee from working in the Software.

"Delivery" occurs when ProPhoenix has first delivered the Software and Documentation on CD-ROM to a common carrier, by ESD (electronic delivery), or personally by an authorized employee or agent of ProPhoenix at Licensee's address set forth above and Licensee accepts such delivery.

"Designated Representatives" shall mean Licensee's employee who is trained and continues to keep updated with the ongoing product details in the Software and capable of providing support to their users.

"Documentation" means the user guide and technical guide related to the Software, any related support material specified in an exhibit, addendum, or schedule, and the functionality described at the ProPhoenix website at www.prophoenix.com, as may be modified from time to time by ProPhoenix as permitted by this Agreement. Documentation may, at the option of ProPhoenix, be provided in paper or electronic form.

"Enhancements" are new releases and versions, error corrections, minor updates and modifications of the Software. Enhancements are included with the Software at no additional cost.

"Error" means a failure of the Software to conform to the specifications therefor as set forth in the Documentation resulting in the inability to use any portion of, or a considerable restriction in use of, the Software.

"Error Correction" means either a software modification or addition that, when made or added to the Software, corrects the Error, or a procedure or routine that, when observed in the regular operation of the Software, eliminates the practical adverse effect of the Error on Licensee.

"Escrow Release Event" is defined in Section 13.

"High Error" means an Error which represents a failure of expected functionality that causes serious degradation to Licensee's use of the Software production system.

"Maintenance Release" means a subsequent version of the Software that includes Error Corrections and/or Enhancements.

"Server" means a single CPU or multi-core server (physical or virtual). A Server may be located at a different location than the Licensee's permitted Site.

Commented [TG34]: So, I thought the increased price was because the City wished to do the Escrow option. Why are we paying the escrow agent on top of that?

Commented [LP35R34]: In the past, the vendor worked with particular escrow agents. Does ProPhoenix have a list and won't they be coordinating this with the escrow company. We definitely need to clarify this wording.

Commented [PH36R35]: We will include a \$2,000/year fee as part of the annual maintenance to cover the escrow agent costs

Commented [LP37R34]: Did you adjust the Overall Costs above already?

Commented [PH38R34]: The escrow fee has already been added into the annual maintenance fee represented in the contract

"Site" means a facility or other physical location at which Licensee's users operate the Software.

"Software" means the Phoenix–Law and Fire CAD, RMS and WDA software modules listed on the initial page(s) of this Agreement (or an exhibit, amendment or schedule hereto) and the Proposal, as it may be upgraded, enhanced, and/or modified by ProPhoenix (unless such upgrade is accompanied by a separate license agreement, in which case the terms of that license agreement will govern the Software as upgraded), in machine-readable, object code form only. The Software includes any Third-Party Software products and related documentation listed in the Proposal, on the initial pages of this Agreement, or in an exhibit, amendment, or schedule hereto.

"Source Code" means the human-readable version of the Software, comprised of a text listing of commands to be compiled

or assembled into an executable computer program, along with any associated developers' notes.

"Support Environment" means Software instances (typically one production instance and one QA instance) at Licensee's site location.

"Third-Party Software" means software of companies other than ProPhoenix that ProPhoenix has licensed to Licensee under this Agreement.

"Third-Party Software Provider" means a company, other than ProPhoenix, that has licensed Third Party Software to ProPhoenix, which ProPhoenix sublicenses to Licensee under this Agreement.

APPENDIX A
[ATTACH THE DEFINITIVE PROPOSAL]

ProPhoenix CAD, RMS and WDA Mobile Software (Appendix A)

Proposal

Pueblo Police Dept

Attention: Director RFQ contact Lori Pinz
200 S Main St
Pueblo, CO 81003
Phone# **719-553-2420**

Proposal# 21-000079

Date : 02/28/2023

Valid Until : 03/31/2023

Submitted By:

Brickey, Ryan
Phone# **609-257-1880 X**
E-Mail:
ryan.brickey@prophoenix.com

Dear Director RFQ contact Lori Pinz,

On behalf of ProPhoenix Corporation, we are pleased to present this proposal for various components of the Phoenix Public Safety Solution Suite. The attached proposal details the required software modules and associated support services in order to successfully implement the proposed solution. If hardware is being proposed and/or recommended, please take note of the specific operating requirements outlined in the Proposal Notes and/or Terms section.

Phoenix represents a major "paradigm shift" in the value provided to Public Safety agencies throughout the United States. There are several differentiating benefits realized by an agency when implementing Phoenix Software. Highlights include;

- ✓ Deep horizontal and vertical integration throughout the entire software suite
- ✓ Integration of 3rd party tools which are transparent to the end user
- ✓ A complete, end-to-end, Public Safety lifecycle suite deployable throughout the entire agency
- ✓ Complete design, development, deployment, and maintenance conducted by ProPhoenix personnel
- ✓ Fiscal responsibility for both the initial procurement as well as ongoing sustainability
- ✓ An "all-inclusive" module philosophy within the major application offerings, e.g., CAD, RMS, Mobile, Fire, Corrections
- ✓ Continual incorporation of the latest in tools and technology to stay ahead of the technology curve
- ✓ Business Intelligence (B/I) capabilities providing "actionable insight" for enhancing decision making in support of Intelligence Led Policing (ILP) initiatives
- ✓ Adherence to National information sharing standards, e.g. National Information Exchange Model (NIEM) based of Global Justice Extensible Mark-up Language (GJXML)

The Phoenix Public Safety Software Suite embraces our "i3" design philosophy of "Integrated, Intuitive, Innovative". By implementing these tenets, our goal is to maximize an agency's effectiveness and optimize its efficiency through the use of our software. We are confident in our ability to exceed your operational expectations, and are grateful for the opportunity to compete for, and earn your business. Should you have any questions, please do not hesitate to contact us.

Please have an authorized officer sign below and return a copy to me. Upon execution by both parties, this proposal and its terms and conditions will become a binding agreement.

Acceptance:

By: Pueblo Police Dept

ProPhoenix Corporation

Signature

Date

Signature

Date

Print Name

Title

Print Name

Title

ProPhoenix Corporation ("Company") proposal contains information and data, which are privileged, confidential and/or proprietary to the Company. This information and data is commercially sensitive and/or financial in nature and is not made available for public review. This information is submitted on a confidential basis only in response to a specific customer request. The information contained herein is protected, among other things by the Trade Secrets Act, as codified, and any improper use, distribution, or reproduction is specifically prohibited unless otherwise required by law. No license or right of any kind whatsoever is granted to any third party to use the information contained herein unless a written agreement exists between Company and the third party which desires access to the information. The information contained herein is submitted for purposes of review and evaluation in connection with Company's response to the specific request denoted herein. No other use of the information and data contained herein is permitted without the express written permission of the Company. Under no condition should the information contained herein be provided in any manner whatsoever to any third party without first receiving the express written permission from the Company unless otherwise required by law.



Total Solution Cost :

Cost	\$ 1,387,739.00
Discount	-\$ 212,000.00
Final Proposal Amount	\$ 1,175,739.00
Annual Support and Maintenance	\$ 143,730.60

Cost Summary:

*A.S.M: Annual Support & Maintenance

Category	Cost	Discount	Total Price	A.S.M
ProPhoenix Items				
Application Software	479,450.00	0.00	479,450.00	73,582.50
Interface	303,394.00	0.00	303,394.00	50,093.10
Conversion	125,000.00	0.00	125,000.00	0.00
Citizen Services	3,900.00	0.00	3,900.00	2,400.00
Training	150,200.00	0.00	150,200.00	0.00
Project Management	95,000.00	0.00	95,000.00	0.00
Installation	26,750.00	0.00	26,750.00	375.00
Discount	0.00	-212,000.00	0.00	0.00
3rd Party Software	15,280.00	0.00	15,280.00	15,280.00
Miscellaneous	188,765.00	0.00	188,765.00	2,000.00
ProPhoenix Items Total :			1,175,739.00	143,730.60
Proposal total	1,387,739.00	-212,000.00	1,175,739.00	143,730.60

Customer Signature

Date



Item Details:

	Item Name	Qty
<u>Application Software</u>		
CAD-CLI-MJ-SITE	CAD Client - MultiJuris - Police/Fire/EMS (Site License) 20 CAD seats - Dispatch for Pueblo PD and Fire	1
CAD-SER-MJ	CAD Server - Multi-Juris Police/Fire/EMS/OEM/DPW	1
WDA-CLI-PF-SITE	WDA (Mobile) Client - Police/Fire/EMS (Site License) 160 PD 31 Fire	1
WDA-SER-POL	WDA (Mobile) Server - Police	1
WDA-SER-FIR-SING	WDA (Mobile) Server - Fire/EMS	1
WDA-SER-APP	WDA - PD App Server License for Tablet and Phone	1
WDA-SER-APPFD	WDA - FD App Server License for Tablet and Phone	1
RMS-CLI-SITEP	RMS Client - Single Juris - Police (Site License)	1
RMS-SER-SGL-POL	RMS Server - Single Juris - Police	1
PNX-IA-LAW	IA - Phoenix Internal Affairs (IA)-Site License (Law)	1
RMS-LAW-SCHED	Law Personnel Scheduling Module	1
CAD-CLI-STA-SITE	CAD Status Client - Sheriff/Police/Fire/EMS (Site License)	1
PNX-INTERVIEW	Phoenix Interview Module Licensing and Configuration	1
<u>Interface</u>		
INT-NCI-SER-QU	Interface - NCIC Server TCP/IP (Queries Only)	1
INT-ESRI-BUNDLE	Interface - ESRI Bundle (Phoenix CAD Map, RMS Map and Geo Sync)	1
INT-COURT-ENCODE	Interface - Incode Municipal Court	1
INT-TONE-USDIG	Interface - US Digital (Phoenix G2) Fire Toner System	1
INT-IBR-CONFIG	Interface - NIBRS Module Configuration and Set Up	1
INT-ECITA-CO	Interface - Colorado e-Citation	1
INT-DISCOVERY-CO	Interface - Colorado e-Discovery System	1
INT-NICE-REC	Interface - NICE Phone Recording CAD Integration	1
INT-RAPIDSOS-II	Interface - RapidSOS CAD Interface	1
INT-NEARMAP	Interface - Nearmap Aerial Mapping Features	1
INT-TYLER-FIN	Interface - Tyler Financial Program (MUNIS)	1
INT-TASER-AXON	Interface - Axon Body Camera Video	1



INT-CAD-TXT2DISP	Interface - Text2Dispatch	1
INT-IMAGETREND	Interface - Image Trend RMS	1
INT-LOGIS-CAD	interface - ProPhoenix CAD to Logis CAD	1
INT-GUARD-911	Interface to Guardian 911 by Solacom	1
INT-911-NEXTGEN	Interface - E911 Next Gen Features	1
INT-PROQA	Interface - Priority Dispatch Pro QA (EMS)	1
INT-SPIDR-TEXT	Interface - CAD to SPIDRTECH Text Features	1
CAD and RMS Interface		
INT-GETAC	Interface - Getac Body Camera System	1
INT-NAV-LINX	Interface - LInX/D-DEx	1
INT-IDEM-NIST	Interface - Idemia LiveScan NIST Interface	1
INT-KGIS-NET	Interface - Key Global Information Sharing	1
INT-CARFAX-CRASH	Interface - RMS Crash Reports to CARFAX	1
<u>Citizen Services</u>		
CIT-SUP	Citizen Services (Crime View) - Annual Subscription	1
CIT-SETUP-SJ	Citizen Services - Initiation and Setup - Single Agency	1
<u>Installation</u>		
INS-SER-TEST	Installation - Components/Licensing for Test Server	1
PNX-INS	Installation - Phoenix Software	1
POWERBI-ENT-CFG	Power BI Configuration for SQL Enterprise or Standard	1
GOOG-MAP-SETUP	Installation - Google Map Setup and Configuration	1
INT-USER-HRDW	Software Driver and Configuration Assistance of User Provided Hardware	160
DL Scanners Embedded in GETAC hardware		
<u>Miscellaneous</u>		
PNX-PRO-CONTIN	Project - Contingency Reserve	1
20% of total project cost		
ESCROW-COAK	Escrow - Source Code Storage (Annual)	1
<u>Conversion</u>		
CON-GC	Populate Geo (Address)	1
CON-OSSI	Data Conversion - Sunguard OSSI	1
CON-OSSI-PROP	Data Conversion - OSSI Property and Evidence	1
CON-CRYWOLF	Data Conversion from Cry Wolf Alarms	1
<u>Training</u>		
TRN-GO-LIVE	Training - On-Site Go Live	5
TRN-POST-LIVE	Training - On-Site Post Go Live	5



TRN-ONS-TTT	Training - On-Site Train the Trainer	20
TRN-ONS-SPECIAL	Training - On-Site Specialized Training Administrators	5
TRN-TTT-REFRESH	Training - 6 Month Refresher Training	5
TRN-RMSNIBR-ENDU	Training - On-Site Specialized RMS/NIBRS Training	2
TRN-ONS-SPECAD	Training - On-Site Specialized Training CAD	8
TRN-ONS-IA	Training - On-Site Specialized Training Internal Affairs	1
TRN-PROP-ENDU	Training - On-Site Specialized Training Property and Evidence	3
TRN-RECORDS	Training - On-Site Specialized Training Records Division	5
TRN-SUPERVISOR	Training - On-Site Specialized Training Supervisors	5
TRN-REM-WEB	Training - Off-Site On-Line (WEB and/or Telephone)	40
TRN-ONSITE-BI	Training - On-Site Specialized Training Power BI Dashboards	2
	Crime Analyst training	

Project Management

PM-GEN	Project Management and Professional Services	1
PM-CONTIN	Project Management - Contingency Amount	1
	Project Management Onsite Travel Contingency Reserve	

3rd Party Software

GOOG-MAP-SAAS	Google Map Subscription	191
	160 PD Mobiles	
	31 Fire Mobiles	

Discount

PNX-DISC-STFIRST	Discount - First in State	1
------------------	---------------------------	---



Terms & Conditions

Application Software

CAD Client - MultiJuris - Police/Fire/EMS (Site License)

Must meet the hardware requirements and be connected to Phoenix CAD server on a high speed IP LAN. Installation of Microsoft .Net 4.5 as part of the Windows O/S is required.

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions the appropriate Mapping licensing is required. Onsite will require travel costs that are the responsibility of the customer and will be billed upon completion.

CAD Server - Multi-Juris Police/Fire/EMS/OEM/DPW

Customer is responsible to provide server and client hardware with minimum requirements and be connected to Phoenix CAD server on a high speed IP LAN. Installation of Microsoft .Net 4.5 as part of the Windows O/S is required.

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions the appropriate Mapping licensing is required.

WDA (Mobile) Client - Police/Fire/EMS (Site License)

WDA works with IP based communication link. Customer is required to procure the necessary hardware, software and service to establish the secure TCP/IP communication channel between wireless client and the Phoenix WDA server. ProPhoenix recommends NetMotion Mobility Software. Any GPS device that can be connected via serial port or USB which output's data in NMEA2 format can be used with WDA. WDA will automatically detect the GPS existence with no configuration.

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions, the appropriate Mapping licenses are required. Onsite will require travel costs that are the responsibility of the customer and will be billed upon completion.

WDA (Mobile) Server - Police

WDA works with IP based communication link. Customer is required to procure the necessary hardware, software and service to establish the secure TCP/IP communication channel between wireless client and the Phoenix WDA server. ProPhoenix recommends NetMotion Mobility Software to satisfy CJIS requirements such as compliance with *FIPS 140-2* Encryption Requirements.

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions, the appropriate Mapping licenses are required.

WDA (Mobile) Server - Fire/EMS

WDA works with IP based communication link. Customer is required to procure the necessary hardware, software and service to establish the secure TCP/IP communication channel between wireless client and the Phoenix WDA server. ProPhoenix recommends NetMotion Mobility Software.

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions, the appropriate Mapping licenses are required.

If applicable, on-site will require travel costs that are the responsibility of the customer and will be billed upon completion.

WDA - PD App Server License for Tablet and Phone

WDA App works with IP based communication. Customer is required to procure the necessary hardware, software, and service to establish the secure TCP/IP communication channel between wireless client and the Phoenix WDA App server. ProPhoenix recommends NetMotion Mobility Software. If this is an unsecured mobile device CJIS Security Requirements mandate 2 Factor Authentication. ProPhoenix provides 2FA at no additional cost. If needed, contact support for assistance with 2FA.



Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions, the appropriate Mapping licenses are required.. App server supports iPad, Android and Windows Surface Pro

WDA - FD App Server License for Tablet and Phone

WDA App works with IP based communication. Customer is required to procure the necessary hardware, software, and service to establish the secure TCP/IP communication channel between wireless client and the Phoenix WDA App server. ProPhoenix recommends NetMotion Mobility Software or establishing a public IP with SSL encryption enabled.

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions, the appropriate Mapping licenses are required.

RMS Client - Single Juris - Police (Site License)

Hardware and all the necessary system software along with its installation & configuration are the responsibility of the customer unless otherwise stated. System specifications must meet the minimum requirements.

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions, the appropriate Mapping licenses are required.

This site license provides unlimited concurrent client connections to the RMS server for the single site application listed on the proposal. Information on upgrading to a multi-juris site license available upon request.

RMS Server - Single Juris - Police

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions, the appropriate Mapping licenses are required.

Included with a RMS License:

Accounting

e-Attachment Capabilities

Parking Citations

Accreditation Assistance

Employment Application Tracking

Pawn Entry

Activity Log

e-Signature Capabilities

PDF Form Support

Alarms

Expungement

Permits

Arrest Entry

False Alarm Billing

Personnel Management



Attachments

Field Interview

Personnel Scheduling

Barcoding

Fleet Maintenance

Property Room

CAD Details

Gangs Module

Records

Camera Interface

GEO Management

Redaction Features

Case Management

Global Text Search

Report Entry and Approval

Citation Tracking

Help Desk Module

Social Media Profile Tracking

Citizen Services (Internal functions)

Incidents

SOR/Career Criminal Registry

Civil Process

Inventory

SSRS Reporting Capabilities

Clery Reporting (if applicable)

K-9

Stop Profile

CompStat Report

Mapping

Towing

Contacts

Master Search

Traffic

Crash Reports

MS Excel Export

Training



Crime Analysis BI
Mugshot and Line Ups
UCR and/or NIBRS
Details Worked Billing
Municipal Jail Cell Checks
Use of Force
Document Management
Name Mining
Vehicle (Plates, VIN, etc.)
Domestic Violence Tracking
Names
Warrants and Protective Orders
Drug Overdose
Notification Features

IA - Phoenix Internal Affairs (IA)-Site License (Law)

ProPhoenix Internal Affairs is a full featured solution designed to support the standards held by most law enforcement agencies. Using the latest Microsoft Technologies, and configured with an independent SQL database that does not allow access outside of an authorized IA user list.

Built on the same .NET and browser based technologies as our ProPhoenix suite of products, any authorized user can access this system anytime, anywhere.

- Independent product with no access from regular CAD and RMS users
- Easy to understand User Interface
- Complaint Entry – Anywhere, Anytime
- Case Management
- Effective Notification and Early Warning Systems
- Full Reporting System
- Automated Correspondences and Statistical Reports
- Phoenix integrated Video Interview Module is compatible with IA (Optional)

Subscription (Cloud) Accounts: Because the IA module does not contain NCIC access, ProPhoenix utilizes the standard Microsoft Azure Cloud service and not the NCIC required Government Cloud Service.

Law Personnel Scheduling Module

COTS Law Enforcement Scheduling Module will be configured to meet the agency requirements. Custom programming may be at additional cost.

CAD Status Client - Sheriff/Police/Fire/EMS (Site License)

Must meet the hardware requirements and be connected to Phoenix CAD server on a high speed IP LAN. Installation of Microsoft .Net 4.5 as part of the Windows O/S is required.



Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions the appropriate Mapping licensing is required.

Phoenix Interview Module Licensing and Configuration

Phoenix Interview Module Licensing supports recording, playback and download video's. Recording will be started and stopped as part of the Phoenix Interview screen and will be automatically indexed to the case.

Camera can be connected to the Ethernet network with appropriate power. External Microphone is recommended and can be connected to the Axis camera. Microphone may also need external power. Phoenix Video Server and Axis Camera Station software may be installed on the same RMS server, but a separate Virtual Machine or a dedicated machine is recommended.

Recommended Hardware:

1. Axis P3384V Fixed Dome Network Camera
2. One ETS SM5 - Single zone microphone

Server Requirements (Customer to provide):

1. Separate hardware to host Phoenix Video Recording Software
2. Any third party software such as Windows O/S.
3. Required Storage to store the video recordings.

Customer Responsibility:

1. Mount the Camera and Microphone with appropriate hardware and power supply
2. Connect the Microphone to the Camera and connect the Camera to the ethernet
3. Arrange a server to install Phoenix Video Server software and Axis Camera Station software with Windows 2008 R2 or 2012
4. Plan to have enough storage space for the Recordings.

ProPhoenix Responsibility:

1. Install Phoenix Video Server software and Axis Camera Station software on the customer provided server
2. Configure the Camera, Phoenix RMS, Axis Camera Station and Phoenix Video Server
3. Test and Verify the Video Recordings
4. Provide a walk-through on the usage of the Interview module.

Interface

Interface - NCIC Server TCP/IP (Queries Only)

New development for NCIC Queries only. This interface does not allow for entries, modifications, cancellations, etc.

NCIC will take a minimum of 3 months to complete from the time of the meeting with the state and Customer.

Customer Responsibilities:

- Initiate conference call between State, Customer & ProPhoenix
- Determine the customer NCIC/CAD server & State server Nat Map IPs (State IP & CAD IP Map)
- NCIC/CAD server should be able to Ping the State IP & Port#. The same way state needs to communicate back to NCIC/CAD Server.
- Customer & State need to confirm the IP communication between Customer server and State Server.



- Provide transaction query list confirmation to ProPhoenix and to the State

ProPhoenix Development Responsibilities:

- NCIC communication channel between state IP & Port# and customer server
- Transaction query list (provided by customer as per above) - plate query, DL, name query & III. Transaction query list should contain around 12 to 18 queries. The State can limit the amount and types of queries allowed to be submitted through the interface.
- CAD & RMS need to add necessary UI based on transaction query list and business process such as follow up query based on NCIC response.
- Demonstrate to customer if customer is satisfied then notify the state.
- State Approval for production
- State will pick up the date for review and approval and organize the conference call to the State, customer & ProPhoenix.
- State will ask customer to run each query and the state will verify the NCIC response.
- If anything goes wrong the State will reschedule.

NCIC Go live to be approved by the state and ProPhoenix does not have any control over this.

Interface - ESRI Bundle (Phoenix CAD Map, RMS Map and Geo Sync)

1. Auto update new Addresses from ESRI into Phoenix
2. CAD and WDA will use ESRI map in place of a 3rd party mapping product.
3. RMS: ESRI map is used any place we show map such as Geo Analysis, AVL Replay, Master name etc)
4. RMS: ESRI layers can be pulled into RMS directly from ESRI which avoids duplicate layer creation in Phoenix

Interface - US Digital (Phoenix G2) Fire Toner System

The US Digital interface will tone out Fire calls as a result of calls being entered and dispatched in ProPhoenix CAD. ProPhoenix allows mapping of Stations or Units in combination with CFS Codes to pre-configure specified Tone Codes to be sent at time of dispatch. Proper configuration and testing is required by the user

There may be costs from the toner vendor that are not part of the ProPhoenix interface cost. Check with your vendor.

Fire toners are a complex interface between multiple vendors and radio systems. It is part of our Computer Assisted Dispatch software and is meant to aid, not replace dispatcher oversight. As with any interface, there could be system or Network interruptions or glitches. It is imperative that your agency has verification procedures in effect and makes certain the toner was received by the appropriate fire or rescue resource.

Interface - NIBRS Module Configuration and Set Up

Requirements for assisting customer with submitting live NIBRS information to the State. NIBRS Module Mapping of Charge Codes, Review and configuration of CFS Codes, Training, State Certificate and Configuration of NIBRS functionality in the ProPhoenix applications. Includes the necessary set up of the connections with the State for successful test submissions, and preparation and testing for live submissions. No additional servers or hardware are required. This will be installed with the Phoenix Records Management System.

Interface - Colorado e-Citation

ProPhoenix will develop the necessary screens in the WDA and RMS software to capture and produce the Colorado uniform traffic citation. Once the citation is completed, it will be seamlessly inserted into the RMS traffic module and available for printing in the vehicle. If available the citation will be electronically submitted to the state.

Interface - Colorado e-Discovery System



ProPhoenix will send appropriate data to the State e-Discovery System. Specifications TBD. Priced as a uni-directional interface. Bi-directional requirement may be at additional cost.

Interface - NICE Phone Recording CAD Integration

Link to search NICE call recordings by incident number from CAD. Specs TBD

Interface - RapidSOS CAD Interface

RapidSOS provides life-saving multimedia, health profile, and real-time incident data from connected devices directly to 9-1-1 and first responders. RapidSOS works closely with mobile device manufacturers such as Apple and Android to get accurate location information along with emergency data when a 9-1-1 cell call is made.

- Automatically show RapidSOS data in a separate browser when a 9-1-1 call is received.
- Retrieve current device coordinates (Latitude and Longitude) from RapidSOS using a web service.
- Plot the incident location on the map in CAD and Mobile using the obtained coordinates.
Set up an automatic rebid process with CAD to continuously update the location on the map such as while riding with Uber.
- Phoenix Enhanced CAD Interface Capabilities offers integration with Phoenix CAD. Emergency data associated with the cell number is sent to Rapid SOS, retrieved and stored from within CAD as part of the call. Pertinent data field will be saved and searchable. Phone vendors and other Rapid SOS partners may not allow all data to be passed to CAD via the Rapid SOS API. ProPhoenix can only display data provided by the Rapid SOS API.
 - Due to privacy considerations with Apple and Google medical information will no longer be integrated into the CAD history.

Please see <https://info.rapidsos.com/prophoenix> for more information.

Interface - Nearmap Aerial Mapping Features

TBD. ProPhoenix will work with agency and vendor to determine specifications.

Interface - Tyler Financial Program (MUNIS)

One way push of required information from the ProPhoenix RMS to Tyler MUNIS. Customer must coordinate with Tyler and assist in implementation and training.

Tyler interface costs, if any, are not included in this proposal and are the responsibility of the customer.

Interface - Axon Body Camera Video

A CSV File will be created containing the following fields –

Event_ID (Call #)
Officer_Badge_ID
Officer_Dispatched_DateTime
Officer_Cleared_DateTime
Report_Number (Case #)
Category
Tag
Title
Street
City
State
ZIP_Code

ProPhoenix is sending the information of Prime Officer, date, time, IR number etc to Axon by scheduled job interval. They are attaching this info to their video file so agencies can search in the Axon system using Phoenix information. Currently, they can look up video by officer or date and time. This allows them to look up video with Case Number Prime officer locations, etc.

No information is saved to the ProPhoenix database.

Interface - Text2Dispatch

Unless provided by ProPhoenix the agency must purchase a phone number from our partner, Twilio, and set up an account with them.

ProPhoenix will manage the billing and payment for the Txt2CAD interface with Twilio. Customer agrees to pay the estimated annual cost for the upcoming year. The initial estimate will be billed separately and thereafter added to the maintenance and support invoice. Annually, it will be reviewed against the actual usage and a new estimate will be provided and the amount adjusted on the support invoice. Any overage will be adjusted against the upcoming billing cycle and any under payment will be billed to the Customer in accordance with ProPhoenix's standard invoice procedure



In a multi-juris configuration each PSAP gets its own phone number. You can also port your own local number into Twilio at no cost.

The agency purchases from ProPhoenix the appropriate Text2Dispatch license (single or multi-juris)

ProPhoenix will configure the interface and enable the license.

Each phone number currently costs \$1 per month

Each text message currently costs \$0.0075 per message. (Example - 200 message/day will cost \$45.00 + \$1 = \$46/month.

Prices from Twilio may change so for current price information please check: <https://www.twilio.com/pricing>.

Interface - Image Trend RMS

Transfer of CAD data to the ImageTrend RMS as described below:

- A folder is configured in which the CAD XML file will be written
- Image Trend applications are set to "watch" the folder for updates and take the information written
- CAD actions that cause the information to be written to the folder include:
 - o Call / Incident created - This includes any call received by the 911 system, transferred to the Call Center from another location, received by automatic alarm system, etc. then is created in Phoenix CAD
 - o Dispatch – any call dispatched to any station or unit that is then dispatched by Phoenix CAD
 - o Incident Update – anytime any Call Center personnel update the call using the Phoenix CAD command code to update the call
 - o Finished – anytime any Call Center personnel finish the call and add a disposition

interface - ProPhoenix CAD to Logis CAD

Incident data entered in the CAD system will be transferred to Logis CAD for AMR Ambulance Services . This would include the details of the call, Case number, Units assigned, times, and other appropriate data as determined necessary. ProPhoenix will transfer Call data from ProPhoenix CAD to Logis CAD as possible. Cooperation from Logis CAD vendor is vital to a successful interface. ProPhoenix cannot transfer over information that the CAD system or CAD vendor will not, or can not, provide.

Interface is dependent on the ability of the CAD vendor to meet the technical requirement of ProPhoenix to implement the interface.

Customer must assist with Vendor meetings, configuration and testing.

Interface to Guardian 911 by Solacom

Certified Interface to Guardian 9-1-1 by Solacom. This would provide the dispatcher the correct protocol for handling Law Enforcement emergencies and provide the information to assist with Emergency Law Enforcement Service Dispatching.

Interface - E911 Next Gen Features

Next Gen 911 specifications not yet finalized by APCO. This item will be for development of text to CAD if not done through the 911 phone vendor. If done through the phone vendor this interface will accept the phone vendor text data.

Interface - Priority Dispatch Pro QA (EMS)

Certified Interface to Pro QA. This would provide the dispatcher the correct protocol for handling EMS medical emergencies and provide (via ProQA) the information to assist with Emergency Medical Dispatching.

Interface - CAD to SPIDRTECH Text Features

Specs TBD

Interface - Getac Body Camera System

1. A CSV File will be created containing the following fields –

- Call #
- CAD CFS
- Case #
- Management CFS (Highest)
- Officer Badge # (Payroll #)
- Dispatched Time



Finished Time
Street Address
City

ProPhoenix is sending the information of Prime Officer, date, time, IR number etc to Axon by scheduled job interval. They are attaching this info to their video file so agencies can search in the Getac system using Phoenix information. Currently, they can look up video by officer or date and time. This allows them to look up video with Case Number Prime officer locations, etc.

No information is saved to the ProPhoenix database.

Interface - LInX/D-DEx

Law Enforcement Information Exchange (LinX) is transforming the way it shares the law enforcement information with its federal, state and local law enforcement partners to exchange of criminal justice information that is complete, accurate, and timely to prevent the crime and systematically improve the investigation and prosecution of criminal activity.

This release of the Linx/D-DEx is based on the NIEM Template Requirements document and contains written documentation, sachems, instance documents, style sheet, a mapping spreadsheet, and additional documentation. The Linx/D-DEx will promote a standard for information sharing on a national level for law enforcement and criminal justice entities.

Interface - Idemia LiveScan NIST Interface

The customer is responsible to contact/contract their Livescan provider for them to perform any interface related tasks to interface ProPhoenix to their system.

ProPhoenix will send a NIST file including all Biometric details and Mugshots to a shared folder in which the Livescan device will pull the file and provide the full details in the Livescan device to be transferred to state.

Interface - Key Global Information Sharing

KGIS.Net interface provides the access to share certain information securely among other Phoenix users without duplicating the data (including index replication). Customer will have to open read-only access to Company KGIS Server. Customer has some options to limit the amount of detail information that can be shared. Data communication is based on GJXML schema.

No data is stored, or viewed by ProPhoenix. We simply provide a message switch to direct queries between agencies.

Interface - RMS Crash Reports to CARFAX

ProPhoenix will create a job for job server to send a daily batch of Crash Reports to CARFAX via XML for sale of reports to the public.

Interface includes discussions with CARFAX, development and testing.

Citizen Services

Citizen Services (Crime View) - Annual Subscription

Citizen Services is a subscription service hosted by ProPhoenix Corp. The minimum term is 1 year which is renewed annually unless cancelled in writing 60 days prior to expiration. {agencyname}.prophoenix.com will be established and hosted by the Company. Citizen Services allows the public to access the website to perform various online reporting functions.

Citizen Services - Initiation and Setup - Single Agency

Citizen Services is a subscription service hosted by ProPhoenix Corp. The minimum term is 1 year which is renewed annually unless cancelled in writing 60 days prior to expiration. {agencyname}.prophoenix.com will be established and hosted by the Company. Citizen Services allows the public to access the website to perform various online reporting functions.

Installation

Installation - Components/Licensing for Test Server

Setup and Install Test Database on Customer Server. ProPhoenix recommends a test server and test database be used to qualify



new releases before moving the new version to the production database.

Installation - Phoenix Software

Server Hardware and System Software must be installed, configured, and available before installation can begin. Customer must provide remote access with full Administrator privilege to the server. Each CAD client PC's should be available on the network with the minimum recommended configuration. Installation will be done remotely using Remote Desktop access.

Optional on-site installation requests will require travel and personnel costs that are the responsibility of the customer and will be billed upon completion. Estimates of cost will be provided if on-site installation is desired and will be based on our actual cost for personnel, travel and accommodations. Meals and incidentals will be actual cost not to exceed the IRS per diem. Contact ProPhoenix to discuss the minimum hardware requirement and various configuration options.

Power BI Configuration for SQL Enterprise or Standard

ProPhoenix will configure the database for BI, setup all the supplied dashboards and enable them from within RMS. This set up includes 2 Power BI Pro licenses if Customer does not use SQL Enterprise version.

Installation - Google Map Setup and Configuration

Enable Google map integration with either RMS, CAD and WDA for either Police or Fire usage. Annual Subscription is required which may be listed as a separate line item.

Google no longer supports IE9 and users must upgrade to IE10 or higher to properly display Google Mapping.

Software Driver and Configuration Assistance of User Provided Hardware

Certain Third Party Hardware Devices that are not purchased from ProPhoenix do not contain necessary drivers, decoding software, or configurations necessary to be seamlessly integrated into Phoenix product features. Each device requires these drivers and/or configurations to be compatible with Phoenix Software.

User supplied 3rd Party Hardware will not be supported by ProPhoenix. Customer must contact the provider directly for product issues and support.

Escrow - Source Code Storage (Annual)

It is hereby agreed between Chenosa Systems Corporation dba ProPhoenix and a bona fide Escrow Agent or Company, that Software source code purchased and used by the City/County will be placed into Secured Media Storage as provided by the Escrow Agent or Company documents. ProPhoenix authorizes the Escrow Agent to release this information to the City/County without ProPhoenix consent if, and only if, any of the following occur:

1. ProPhoenix is bankrupt
2. ProPhoenix enters into receivership
3. ProPhoenix defaults

There are no other circumstance existing that would cause the Escrow Agent to provide source code escrow protection to the City/County. No other entity other than the City/County will be allowed to make claim for this information.

Any and all expenses related to this agreement are the responsibility of the City/County. City/County will select an appropriate escrow storage company for this service.

Conversion

Populate Geo (Address)

Customer is responsible for providing the required Geo data based on the ProPhoenix data layout in the GEO spreadsheet or pay for the purchase the address only data from online sources. Intersections cannot be obtained from these online sources and must be provided by customer in spreadsheet format, or hand entered. If Lat/Long information is not provided by customer, Company will populate the Latitude and Longitude for addresses based on the match found in the 3rd party Map applications used by ProPhoenix and will generate a report of all the addresses not found in these programs.

Customer will be required to correct addresses, or manually update the latitude/longitude, for any missing entries. Customer is responsible to verify and update GEO data in the spreadsheets before Company inserts the GEO data.

Data Conversion - Sunguard OSSI

Data Conversion is one of the most significant elements for a successful migration from one public safety system to another. Differences in data base design, structure, layouts, nomenclature, codes, tables, etc., as well as the legal ramifications of one vendor touching another vendor's system, makes it



a daunting task to execute and manage. Thus, a very close working relationship with the client is necessary in order to ensure the task of Data Conversion is successful. Client and Vendor collaboration is essential to identify that all meaningful data is converted or made available to protect years of valuable historical information. The identification of what key and critical data is “meaningful”, and what can and should be converted, as well as what alternative retrieval strategies might be used, such as some data being stored as attached documents, is a work process we are prepared to undertake with your assistance. Unless otherwise specified, data conversion consists of:

- **Name Module:** Jacket, Non-Jacket, Alias, Address, Flags, Associates, Family Info, Employee/School, Gang, Name Activity, Pictures, Comments, Attachments, and Gun Permits.
- **Incident Module:** Call Detail, Case Detail, Unit History, CAD Comments, Vehicles, Names, Attachments, Call Summary, and Report Narratives (only the actual existing narratives).
- **Arrest Module:** Arrest Data, Charge Info, Mugshots, Arrest Comments, Vehicles, and Attachments.
- **Property Module:** Location, Vehicles, Status, Property Room Data, Attachments, and Property History.
- **Citation Module:** Violation Data, Vehicle Info, Attachments and Comments.
- **Crash Module Optional:** If included in proposal, conversion includes Crash Data, Vehicle, Violation and Driver Info., and Narrative.

In order to support this effort, the customer is required to perform the actual task of providing a copy of the database or performing data extraction in ASCII (with guidance and assistance from ProPhoenix), delimited format or in SQL format.

Our Conversion Manager will work closely with your designated personnel. We will install a temporary conversion database that will be utilized until the data conversion process is complete. We will use the copy of your database to conduct the preliminary field mapping and conversion to be review by your staff. Following Go Live on Phoenix software, we will require a final copy of the source database(s), perform the conversion, allow some time for your staff to review and then insert the data into the Live database. The assigned ProPhoenix Project Manager will work closely with your team and our conversion team to make sure the project stays on track and deadlines are met for this and all aspects of the implementation.

A separate, temporary Conversion database is created. All converted data must be reviewed and certified by a member of the Agency team most familiar with the current department records. Once certified and inserted into the Production database, changes will not be possible. Timely responses (within 10 days of requests) is necessary to keep the conversion timeline and process on track. Delays will affect project timelines.

Most of the data conversion occurs following Go Live and once the Agencies have stopped using their current software. However, in order to prepare for Go Live and a smooth migration from one system to another, three parts will be converted and available in the Phoenix system before transition.

All history associated to the above conversions and remaining information such as incidents, arrests, etc. would be completed once the current software is no longer being updated and the data is copied and presented to ProPhoenix to complete the final conversion.

Data Conversion - OSSI Property and Evidence

Customer is responsible to provide the data in ASCII, delimited format, or in SQL format along with its data layout. In addition, Customer must provide code mapping assistance and validate all converted data for accuracy. Company will then work with the Customer and try to convert as much meaningful property/evidence data that can be brought over to the existing Phoenix property tables as possible. If the data cannot be converted it may be possible to create a PDF copy of the property room property and attach it to the appropriate case number. Customer must validate the data for accuracy.

Training

Training - On-Site Go Live

Onsite training consists of:

- 8 hour day including setup and QA period. - typically using a train-the-trainer approach
- Customer Provides the training location, workstations and projection equipment for students and instructor
- Up to 12 students maximum
- On any topic the customer chooses based on training agendas developed by ProPhoenix
- Primary focus of Training for new implementations will focus on Core Modules needed for go-live
- Recommended agendas are established for project implementation and train-the-trainer sessions
- Specialized Training for specific topics such Alarms Billing, Evidence Management, Document Management, Fleet Management, etc.
- Advanced training is for users that are responsible for managing the system and users
- Onsite Support is treated the same as training and is design the new customer get through the initial go-live and field questions as they come up
- Post Go-Live training is used to review areas that the customer is having some doubts and to provide training on specialized modules
- Per Diem and Travel expenses billed to customer unless otherwise specified in the agreement.

Training - On-Site Post Go Live

Onsite training consists of:

- 8 hour day including setup and QA period. - typically using a train-the-trainer approach
- Customer Provides the training location, workstations and projection equipment for students and instructor



- Up to 12 students maximum
- On any topic the customer chooses based on training agendas developed by ProPhoenix
- Primary focus of Training for new implementations will focus on Core Modules needed for go-live
- Recommended agendas are established for project implementation and train-the-trainer sessions
- Specialized Training for specific topics such Alarms Billing, Evidence Management, Document Management, Fleet Management, etc.
- Advanced training is for users that are responsible for managing the system and users
- Onsite Support is treated the same as training and is design the new customer get through the initial go-live and field questions as they come up
- Post Go-Live training is used to review areas that the customer is having some doubts and to provide training on specialized modules
- Per Diem and Travel expenses billed to customer unless otherwise specified in the agreement.

Training - On-Site Train the Trainer

Onsite training consists of:

- 8 hour day including setup and QA period. - typically using a train-the-trainer approach
- Customer Provides the training location, workstations and projection equipment for students and instructor
- Up to 12 students maximum
- On any topic the customer chooses based on training agendas developed by ProPhoenix
- Primary focus of Training for new implementations will focus on Core Modules needed for go-live
- Recommended agendas are established for project implementation and train-the-trainer sessions
- Specialized Training for specific topics such Alarms Billing, Evidence Management, Document Management, Fleet Management, etc.
- Advanced training is for users that are responsible for managing the system and users
- Onsite Support is treated the same as training and is design the new customer get through the initial go-live and field questions as they come up
- Post Go-Live training is used to review areas that the customer is having some doubts and to provide training on specialized modules
- Per Diem and Travel expenses billed to customer unless otherwise specified in the agreement
- Provided training is to be held between 8AM and 5PM Monday thru Friday (later hours may be available at additional cost)

Training - On-Site Specialized Training Administrators

On-Site Specialized Advanced Training. If travel expenses are not listed as included in this proposal they will be additional and the responsibility of the customer.

Training - 6 Month Refresher Training

If travel expenses are not specifically listed as included in this proposal, they will be additional and the responsibility of the customer.

Training - On-Site Specialized RMS/NIBRS Training

End user training specifically designed to overview correct RMS function to ensure successful NIBRS submission.

Training - On-Site Specialized Training CAD

On-Site Specialized Advanced CAD Training. If travel expenses are not listed as included in this proposal they will be additional and the responsibility of the customer.

Training - On-Site Specialized Training Internal Affairs

Overview of the Internal Affairs module and specialized training and set up for authorized staff

Training - On-Site Specialized Training Records Division

Specialized Records Division Training

Training - Off-Site On-Line (WEB and/or Telephone)

The price is \$125 per hour and there is a one hour minimum for on-line training.
The time be rounded up to the next half hour. Example: 1 hour and 47 minutes is rounded up to 2 hrs.

There is no limit to the number of students, but care must be used by customer to arrange effective class sizes taking into account the size of the screen for the on-site viewing.

Training - On-Site Specialized Training Power BI Dashboards

Onsite training consists of:

- 8 hour day including setup and QA period. - typically using a train-the-trainer approach
- Customer Provides the training location, workstations and projection equipment for students and instructor
- Up to 12 students maximum
- Primary focus of Training for use of, configuration and assignments of Power BI Dashboards



- Per Diem and Travel expenses billed to customer unless otherwise specified in the agreement.

Project Management

Project Management and Professional Services

ProPhoenix has developed a project management methodology based on best practices and on Project Management Institute (PMI) recommendations. All new projects are divided into the following six distinctive project phases.

1. Initiation: Establish initial communication with the customer, set up internal systems, on-site analysis and initiation of the planning stage.
2. Planning: Conduct site visit if applicable, finalize project plan, and prepare internal team.
3. Implementation: Manage and coordinate with installation team to Install and configure software, conduct system administration training (if contracted), and execute a sample data conversion (if contracted)
4. User Training: If any training days purchased, manage train the trainer training, assist end user training, and prepare to go live.
5. Go-Live: Go live, conduct post go-live training, and perform data conversion (if contracted).
6. Closing: Conduct final review and project close-out. At completion, transfer project management to technical support staff.

3rd Party Software

Google Map Subscription

Customer must open access to Google Map service from the server and all clients. Google cost is the total number of vehicles assigned to the Police and/or Fire fleet. CAD client and/or RMS access to Google Map is covered under this umbrella at no additional charge.

Google License Fee is an annual fee. First fee will be invoiced and subsequent year's license fees will be billed with the annual support.

Google no longer supports IE9 and users must upgrade to IE10 or higher to properly display Google Mapping.

Google map subscription is accessed via the internet and may affect data usage. Check with your provider to see if Google Map data consumption may increase data plan costs.



SOFTWARE ESCROW AGREEMENT

NUMBER _____

This Escrow Agreement (AGREEMENT) is made between an ESCROW AGENT (as hereinafter defined), a TECHNOLOGY VENDOR (as hereinafter defined), a BENEFICIARY (as hereinafter defined), each a Party and collectively Parties to this AGREEMENT and effective as of the last date of the completion of three events identified below ("Effective Date"), each of the dates to be entered by the ESCROW AGENT upon receipt and shared with all Parties electronically at identified email addresses, all three events to be completed no later than thirty (30) days after receipt of the first signature. If both of events (1) and (2) do not occur within the thirty (30) days, then this Agreement is null and void absent an express amendment (written or electronic) to this Agreement by all Parties. If event (3) does not occur within the thirty (30) days, then ESCROW AGENT may, at its option, declare this Agreement null and void. ESCROW AGENT's acceptance of the latter payment of the Escrow Fee(s) after the thirty (30) days constitutes a waiver of ESCROW AGENT's option to declare this Agreement null and void.

- (1) Receipt of the signature of the TECHNOLOGY VENDOR by the ESCROW AGENT;
(a) Receipt Date: _____;
- (2) Receipt of the signature of the BENEFICIARY by the ESCROW AGENT;
(a) Receipt Date: _____; and
- (3) Receipt of 1st year non-refundable payment of Escrow Fee(s) by the ESCROW AGENT;
(a) Receipt Date: _____;

As defined herein, the ESCROW AGENT is:

National Software Escrow, Inc.,
8225 Brecksville Rd., Building Three, Suite 105,
Brecksville, OH 44141

As defined herein, the TECHNOLOGY VENDOR is:

Chenosa Systems Corporation, DBA ProPhoenix
502 Pleasant Valley Avenue
Moorestown, NJ 08057

As defined herein, the BENEFICIARY is:

City of Pueblo, Colorado
1 City Hall Place
Pueblo, CO 81003

- A. *Whereas* the TECHNOLOGY VENDOR and the BENEFICIARY have entered into a Software License and Support Agreement, dated _____, 2023, (the "License Agreement").
- B. *Whereas*, pursuant to the terms of the License Agreement, the TECHNOLOGY VENDOR granted a license to the BENEFICIARY for its use of certain computer software program(s) and related

documentation which are proprietary to the TECHNOLOGY VENDOR and access to which must be restricted to protect its business.

- C. *Whereas*, the TECHNOLOGY VENDOR has on-going and timely maintenance and upgrade obligations to the BENEFICIARY as provided by the License Agreement.
- D. *Whereas*, the BENEFICIARY must have access to those materials identified in this Agreement if the TECHNOLOGY VENDOR is unable to satisfy its obligations as set forth in the License Agreement.
- E. *Whereas*, the TECHNOLOGY VENDOR and the BENEFICIARY affirmatively represent that there is no known Default as defined in §3.1, prior to the EFFECTIVE DATE of this AGREEMENT.
- F. *Whereas*, to address the respective needs of the TECHNOLOGY VENDOR and the BENEFICIARY, the TECHNOLOGY VENDOR and the BENEFICIARY in consideration of the promises and the mutual covenants contained herein, have agreed to escrow Deposit Materials with the ESCROW AGENT and the ESCROW AGENT agrees to accept and to likewise be bound as follows:

1. DEFINITIONS

- 1.1 "Source Code" means a form suitable for reproduction by computer and/or photocopy equipment, and consists of a full source language statement of the Program or Programs as initially installed by BENEFICIARY or as later revised, updated or improved comprising the product and any existing Program maintenance documentation, including all flow charts, schematics and annotations which comprise the precoding detailed design specifications and all other materials necessary to allow a reasonably skilled third-party programmer to maintain or enhance the product without the help of any other person or reference to any other material.
- 1.2 "Programs" means one of the computer software programs identified by the TECHNOLOGY VENDOR to the ESCROW AGENT as being a program for purposes of this Agreement. This includes any program so identified in a deposit form (Form 2.1) (electronic version or hard copy version) sent by the TECHNOLOGY VENDOR to the ESCROW AGENT via Electronic Delivery or Physical Delivery (as defined below) and any additional program that the TECHNOLOGY VENDOR identifies in a deposit form (Form 2.1) that it submits to the ESCROW AGENT as a deposit as hereinafter provided. A given Program includes all components thereof and all Updates therefore (as hereinafter defined). A given Program includes any different versions thereof for different users, user agents, and operating systems.
- 1.3 "Default" means one or more of the developments or events specified in §3.0 of this Agreement.
- 1.4 "Electronic Delivery" means deposit by electronic transfer such as electronic mail (email), File Transfer Protocol (FTP), or any other electronic transfer that communicates data from one storage location to another storage location. Formats for Electronic Delivery include any file format that can be stored on a computer-readable medium. For the purposes of this agreement, an Electronic Delivery will be treated as a Physical Delivery.
- 1.5 "Physical Delivery" means deposit by any non-electronic delivery manner such as, courier, courier service, postal service, mail service, hand-delivery, or any physical delivery in which data stored on tangible medium exchanges possession from one entity to another entity. Formats for a Physical Delivery can be optical disc storage (CD-ROM, Compact Disc (CD), Digital Video Disc (DVD), etc.), removable storage, hard drive, portable storage, memory card, memory stick, or any other tangible computer-readable medium.
- 1.6 "Electronic Format" means deposit by Electronic Delivery.
- 1.7 "Hardcopy Format" means deposit by Physical Delivery.
- 1.8 "Deposit Materials" means proprietary technology and other materials identified on Form 2.1 (including passwords if applicable). They are readable and useable in their current form or, if any portion is encrypted, the decryption tools and decryption keys must also be deposited and separately identified as such on Form 2.1 attached; and include a current version of any Source Code for all software licensed under the License Agreement and all updates thereto, together with all documentation necessary to enable a reasonably skilled programmer to maintain such licensed software, and descriptions of all compilers, assemblers and other computer programs and related documentation and other materials that are necessary or useful to use, modify and prepare derivative works of such Source Code. Deposit Materials can be delivered to the ESCROW AGENT by Electronic Delivery or Physical Delivery. Regardless of delivery method, the ESCROW AGENT is not responsible for any inability by the BENEFICIARY, the TECHNOLOGY VENDOR, or any third-party to successfully utilize the Deposit Materials.
- 1.9 "Notice of Default" means a written or electronic notice issued by the BENEFICIARY to both the TECHNOLOGY VENDOR and the ESCROW AGENT, which complies with §9.14 and further, that identifies the License Agreement and this Escrow Agreement, specifies the Default with reasonable specificity under §3.1, identifies the Deposit Materials and demands the delivery of the Deposit Materials (or an archived copy thereof) to the BENEFICIARY.
- 1.10 "Updates" mean any release, improvement, revision, enhancement, update, or module generally made available by the TECHNOLOGY VENDOR for a Program. Unless otherwise specified by the TECHNOLOGY VENDOR, the BENEFICIARY will have access to all Updates.

1.11 "License Agreement" means the agreement between BENEFICIARY and TECHNOLOGY VENDOR identified in the Recitals above.

2. DEPOSIT OF DEPOSIT MATERIALS

2.1 Upon execution of this Agreement, the TECHNOLOGY VENDOR agrees to deposit as required by this Agreement and the ESCROW AGENT agrees to accept the Deposit Materials for the licensed Program(s) as listed in Form 2.1, attached hereto and made a part hereof. In addition, from time to time hereafter, the TECHNOLOGY VENDOR must deposit with the ESCROW AGENT all necessary and appropriate improvements, revisions, enhancements, or updates for the Deposit Materials so that the Deposit Materials will correspond with the Programs actually distributed to the BENEFICIARY. This obligation to update on behalf of the TECHNOLOGY VENDOR is on-going without any request or intervention from the ESCROW AGENT.

2.2 The TECHNOLOGY VENDOR represents and warrants that:

2.2.1 The TECHNOLOGY VENDOR owns free and clear title to the items listed in Form 2.1 attached hereto and which comply with the definition of Deposit Materials as defined in §1.8 of this Agreement and constitutes the Deposit Materials and documentation of the licensed Program(s) subject to the License Agreement.

2.2.2 The Deposit Materials delivered to the ESCROW AGENT are in a form suitable for reproduction by computer and/or photocopy equipment.

2.2.3 The Deposit Materials initially delivered to the ESCROW AGENT include all necessary materials to permit a reasonably skilled third party programmer to recreate executable version(s) of licensed Program(s) from the Source Code (if applicable).

2.2.4 The Deposit Materials are not subject to any lien or other encumbrance, and any liens or encumbrances made after the execution of this Agreement will not prohibit, limit, or

alter the rights and obligations of the ESCROW AGENT under this Agreement.

2.3 The TECHNOLOGY VENDOR covenants that:

2.3.1 The TECHNOLOGY VENDOR shall notify the BENEFICIARY (either hardcopy or electronically) within ten (10) days of its intended deposits of updates, enhancements or other modifications to the Deposit Materials escrowed with the ESCROW AGENT.

2.3.2 With regard to Deposit Materials, to the extent possible, the TECHNOLOGY VENDOR will conspicuously label as "Source Code" both initial and subsequent deliveries of Source Code.

2.3.3 The TECHNOLOGY VENDOR will complete Form 2.1 and submit both it and the original, along with revised, updated or improved copies of the Deposit Materials to the ESCROW AGENT. Additionally, the TECHNOLOGY VENDOR will simultaneously send a copy of Form 2.1 to the BENEFICIARY when the foregoing is sent to the ESCROW AGENT.

2.3.4 The TECHNOLOGY VENDOR will promptly supplement the Deposit Materials with all revisions, corrections, enhancements, or other changes so that the Deposit Materials constitute a human readable program for the current release of the licensed Program to which this agreement relates.

2.3.5 The TECHNOLOGY VENDOR will both initially and in subsequent deliveries of Deposit Materials to the ESCROW AGENT deliver all necessary materials to permit a reasonably skilled third party programmer to recreate executable version(s) of licensed Program(s) from the Deposit Materials.

2.3.6 Upon request of the BENEFICIARY, the TECHNOLOGY VENDOR must verify and certify that the Deposit Materials deposited accurately and completely comprise the Source Code and related documentation needed to support the current version(s) of the Software. The TECHNOLOGY VENDOR and the BENEFICIARY will agree upon a

mutually acceptable protocol for this verification and certification and the ESCROW AGENT will play no part in this protocol, other than providing a current copy of the Deposit Materials to a mutually designated location identified by both the TECHNOLOGY VENDOR and the BENEFICIARY as per the guidelines provided in Exhibit C.

2.4 The ESCROW AGENT covenants that:

2.4.1 The ESCROW AGENT will issue to the TECHNOLOGY VENDOR and the BENEFICIARY a hardcopy or electronic receipt for the initial Deposit Materials and for each subsequent deposit in a manner consistent with §9.14 (updated as appropriate). The ESCROW AGENT will also attempt to issue a receipt by electronic communication to the email addresses (updated as appropriate) identifying the Deposit Materials with such indicia as provided by the TECHNOLOGY VENDOR. Such receipt verifies a delivery to ESCROW AGENT but not a verification of the contents of initial Deposit Materials and/or for each subsequent deposit. The ESCROW AGENT is not responsible for any inability by the BENEFICIARY, the TECHNOLOGY VENDOR, or any third-party to successfully utilize the Deposit Materials.

2.4.2 The ESCROW AGENT will use its best efforts for the storage, maintenance and safety of the Deposit Materials as used in the industry provided to the ESCROW AGENT by Physical Delivery or Electronic Delivery.

2.4.3 The Deposit Materials provided to the ESCROW AGENT by Physical Delivery will be stored, maintained and preserved in a secure and climatized storage facility containing, at a minimum, the following:

- 2.4.3.1 Certified Halon fire suppression system;
- 2.4.3.2 Computer-controlled humidity and temperature levels;
- 2.4.3.3 Vault and building monitored by 24-hour surveillance and security systems;
- 2.4.3.4 Key punch access restricting access throughout the vault; and

2.4.3.5 Air filtration system.

2.4.4 The Deposit Materials provided to the ESCROW AGENT by Electronic Delivery will be stored, maintained and preserved having, at a minimum, the following:

- 2.4.4.1 File encryption using applicable and appropriate standards. Encryption for storage is applied after files are uploaded;
- 2.4.4.2 Data storage over several large-scale data centers throughout the world. Location of such centers is limited to those with a legitimate business need to have such information about the actual location of such centers;
- 2.4.4.3 Protection against network security issues, e.g., Distributed Denial of Service (DDoS) attacks, Man in the Middle (MITM) attacks, and packet sniffing; and
- 2.4.4.4 Redundant backups for data over multiple locations.

2.4.5 The ESCROW AGENT will hold the Deposit Materials free of access of any other person unless §3.0 Defaults and Release from Escrow, and §4.0 Disputes, have been satisfied.

2.5 The BENEFICIARY and the TECHNOLOGY VENDOR both acknowledge and agree that:

2.5.1 The ESCROW AGENT has no duty to verify that the TECHNOLOGY VENDOR has appropriately provided Deposit Materials as required by this Agreement and the TECHNOLOGY VENDOR has thirty (30) days from the Effective Date of this Agreement to provide the Deposit Materials. Should the TECHNOLOGY VENDOR fail to provide the required Deposit Materials within this time period, the ESCROW AGENT will provide one curative notice to the TECHNOLOGY VENDOR (with a copy to any named BENEFICIARY) which provides an additional ten (10) business days ("Deposit Curative Period") from the date of the Notice to supply the Deposit Materials. If the TECHNOLOGY VENDOR fails to provide the Deposit Materials within this Deposit Curative Period, the ESCROW AGENT may

in its absolute discretion, treat this Agreement as terminated unless both the TECHNOLOGY VENDOR and BENEFICIARY mutually agree in writing to a longer period of time. If no Deposit Material(s) is/are received within one year from the Effective Date of this Agreement, this Agreement is terminated without any further action from the ESCROW AGENT.

2.5.2 This Agreement does not transfer the TECHNOLOGY VENDOR's right, title or interest in the Deposit Materials or its related documentation to the BENEFICIARY and the TECHNOLOGY VENDOR may at its sole discretion except as limited by the License Agreement, own, possess and secure the original Deposit Materials.

3. DEFAULTS AND RELEASE FROM ESCROW

3.1 Any of the following will constitute a Default by the TECHNOLOGY VENDOR of its obligations and responsibilities to a BENEFICIARY.

3.1.1 The TECHNOLOGY VENDOR is unable to correct any Defect (as such term may be defined in the License Agreement) in the Program which prevents it from functioning in accordance with the applicable specifications, documentation, performance criteria and other warranties and descriptions provided in the License Agreement within sixty days after the BENEFICIARY has notified the TECHNOLOGY VENDOR of such failure, specifying in reasonable detail the respects in which the program fails to perform.

3.1.2 The TECHNOLOGY VENDOR is unable to discharge any of its maintenance obligations to the licensed Program in accordance with the warranties or other standards for such maintenance set forth in either the License Agreement or, if applicable, a written software maintenance agreement which may then be in effect between the TECHNOLOGY VENDOR and the BENEFICIARY within sixty days after the BENEFICIARY'S notice to the TECHNOLOGY VENDOR specifying in reasonable detail the respects in which the program is not being properly maintained.

3.1.3 The BENEFICIARY has reasonable cause to believe that any one of the following events will cause the TECHNOLOGY VENDOR to fail to meet its warranty and maintenance obligations:

- 3.1.3.1 insolvency;
- 3.1.3.2 general assignment for benefit of creditors;
- 3.1.3.3 receiver appointment;
- 3.1.3.4 assets become subject to insolvency proceeding;
- 3.1.3.5 wind-up or business liquidation;
- 3.1.3.6 death of key programmers utilized by the TECHNOLOGY VENDOR;
- 3.1.3.7 bankruptcy;
- 3.1.3.8 bankruptcy proceeding; or
- 3.1.3.9 assets become subject to bankruptcy proceeding.

3.1.4 On the alleged happening of one or more Events of Default above, the BENEFICIARY must give electronic or written Notice of Default as provided by this Agreement to both the ESCROW AGENT and the TECHNOLOGY VENDOR of that alleged Default as identified by the BENEFICIARY. The Notice of Default shall be labeled a "Notice of Default," shall identify the License Agreement and this Escrow Agreement, shall specify the nature of alleged Default, shall identify the Deposit Materials with reasonable specificity, and shall demand the delivery of a complete copy of the Deposit Materials to the BENEFICIARY.

3.1.5 Upon receipt of the Notice of alleged Default and payment corresponding to the Release Request Fee as detailed in Exhibit B, attached hereto and incorporated by reference as "PRICE SCHEDULE," the ESCROW AGENT shall likewise send a copy of the Notice of Default to the TECHNOLOGY VENDOR by certified or registered mail, return receipt requested to the address identified in §9.14 (as updated). If the TECHNOLOGY VENDOR desires to dispute the Notice of alleged Default, the TECHNOLOGY VENDOR shall, within ten business days after receipt thereof, deliver to the ESCROW AGENT and BENEFICIARY

in the manner specified in §9.14, an electronic or hardcopy affidavit or other sworn statement stating that in the TECHNOLOGY VENDOR'S view, no Default as alleged, has occurred.

- 3.1.6 If the ESCROW AGENT does not receive an electronic or hardcopy affidavit or other sworn written statement from the TECHNOLOGY VENDOR stating that the TECHNOLOGY VENDOR does not believe there has been a Default, within the time permitted by §3.1.5, the ESCROW AGENT is authorized and directed by TECHNOLOGY VENDOR to deliver the Deposit Materials to the BENEFICIARY even if no response is received by the ESCROW AGENT from the TECHNOLOGY VENDOR within the designated time which expires at 5:00 p.m., Eastern Time (either EDT or EST as applicable). The ESCROW AGENT shall provide the Deposit Materials to the BENEFICIARY in the same medium as delivered to the ESCROW AGENT by the TECHNOLOGY VENDOR and by the same delivery method (Physical Delivery or Electronic Delivery) as delivered to the ESCROW AGENT by the TECHNOLOGY VENDOR, except that ESCROW AGENT reserves the right to provide an archival copy of the Deposit Materials to the BENEFICIARY in the event that TECHNOLOGY VENDOR delivers the Deposit Materials to ESCROW AGENT via Electronic Delivery. The ESCROW AGENT's responsibility for the Deposit Materials ceases upon release of the Deposit Materials to the BENEFICIARY, and the ESCROW AGENT is not responsible for any inability by the BENEFICIARY to successfully utilize the Deposit Materials after release, including a lack of an encryption password (if not originally provided to the ESCROW AGENT by the TECHNOLOGY VENDOR), or the validity of an encryption password (if originally provided to the ESCROW AGENT by the TECHNOLOGY VENDOR).
- 3.1.7 Unless otherwise provided in the License Agreement, upon release of the Deposit Materials, the BENEFICIARY shall have the right to use the Deposit Materials for the sole purpose of continuing the benefits

afforded to the BENEFICIARY by the License Agreement. The BENEFICIARY shall be obligated to maintain the confidentiality of the released Deposit Materials and even though the Deposit Materials have been released or otherwise, this Agreement will not constitute a termination, renewal, or otherwise of the License Agreement.

- 3.1.8 On the alleged happening of one or more Events of Default involving bankruptcy, the BENEFICIARY shall give electronic or written Notice of Default as provided by this Agreement to both the ESCROW AGENT and the Trustee in Bankruptcy for the TECHNOLOGY VENDOR of that Default. The Notice of Default shall be labeled a "Notice of Default," shall identify the Trustee in Bankruptcy, the License Agreement and this Escrow Agreement, shall specify the nature of Default, and shall identify the Deposit Materials with reasonable specificity.
- 3.1.9 Upon receipt of the Notice of alleged Default under one or more Events of Default involving bankruptcy, the ESCROW AGENT shall likewise send a physical copy of the Notice of Default to the Trustee in Bankruptcy of the TECHNOLOGY VENDOR as identified by the BENEFICIARY by certified or registered mail, return receipt requested. The ESCROW AGENT will abide and enforce any order, instruction, or request made by the Trustee in Bankruptcy of the TECHNOLOGY VENDOR regarding to the Deposit Materials. The ESCROW AGENT's responsibility for the Deposit Materials ceases upon enforcement of any order, instruction, or request made by the Trustee in Bankruptcy of the TECHNOLOGY VENDOR, and the ESCROW AGENT is not responsible for any inability by the BENEFICIARY, the TECHNOLOGY VENDOR, or any Third-Party to successfully utilize the Deposit Materials after release.
- 3.1.10 In the event that the ESCROW AGENT becomes insolvent, makes a general assignment for the benefit of creditors, or suffers or permits the appointment of a receiver for its business, where its assets become subject to any proceeding under any insolvency law, domestic or foreign,

or has wound up or liquidated its business, the ESCROW AGENT shall notify both the BENEFICIARY and TECHNOLOGY VENDOR of the occurrence by hardcopy or electronic notification. The BENEFICIARY and TECHNOLOGY VENDOR will each use its best efforts to find another suitable party to serve as a replacement ESCROW AGENT.

- 3.2 The TECHNOLOGY VENDOR and the BENEFICIARY expressly agree that the ESCROW AGENT is entitled to rely upon the veracity of any affidavit or other sworn electronic or hardcopy statement and is under no obligation to perform any independent verification of the same. The ESCROW AGENT is equally entitled to rely upon the veracity of any written notice or other sworn statement regarding the choice of the default event by either the TECHNOLOGY VENDOR or BENEFICIARY or whether the alleged default falls within the enumerated categories.
- 3.3 The ESCROW AGENT has no obligation to release the copy of the Deposit Materials to any third-party that is not a Party to this Agreement except as required by operation of law or court order.
- 3.4 The TECHNOLOGY VENDOR acknowledges that the ESCROW AGENT has the right to maintain the Deposit Materials in the ESCROW AGENT'S possession and to provide such Deposit Materials to the BENEFICIARY for the fulfillment of this Agreement between the TECHNOLOGY VENDOR and the BENEFICIARY.

4. DISPUTES

- 4.1 If the TECHNOLOGY VENDOR provides to the ESCROW AGENT and the BENEFICIARY within the time permitted by §3.1.5 an affidavit or other sworn statement in response to the Notice of Default disputing the existence of any Default, the ESCROW AGENT will not release the Deposit Materials until it receives joint instructions from the TECHNOLOGY VENDOR and the BENEFICIARY, or a copy of a final non-appealable U.S. court order, or binding arbitration award requiring or authorizing such release, unless such judicial order or binding arbitration award is under seal, in which case, the TECHNOLOGY VENDOR and BENEFICIARY will provide a joint statement to that effect to the ESCROW AGENT and provide authorization to provide a release to the appropriate Party.
- 4.2 All Parties agree that the ESCROW AGENT is directed to act in good faith reliance of any representation made in accordance with this Agreement and is completely protected from any adverse results or consequences of such actions even if a court should later determine their rights differently.

5. PAYMENT AND INDEMNIFICATION OF THE ESCROW AGENT

- 5.1 The ESCROW AGENT must be paid for its services in accordance with Exhibit B, attached hereto and titled "PRICE SCHEDULE." The ESCROW AGENT is not required to perform any service, including release of any Deposit Materials, unless the payment for such service and any outstanding balances owed to the ESCROW AGENT by either the TECHNOLOGY VENDOR or the BENEFICIARY have been paid in full. Initial fees are due upon receipt of a signed contract. This Escrow Agreement is only effective upon receipt of all required payments and signatures and is terminated as to any Party if payment is not received within the Curative Payment Period defined herein below.
- 5.2 The "PRICE SCHEDULE" attached hereto as Exhibit B may be modified and updated at the discretion of the ESCROW AGENT. The ESCROW AGENT shall provide 90 days' electronic notice to the TECHNOLOGY VENDOR and BENEFICIARY in the event the "PRICE SCHEDULE" is modified or updated.

5.3 If the TECHNOLOGY VENDOR or the BENEFICIARY, as the case may be, fails to pay an electronic or written invoice addressed to it for services under this Agreement within 30 days of its issue, the ESCROW AGENT reserves the right to alert both Parties by electronic notice to pay the outstanding invoice(s) within 30 days ("Curative Payment Period").

5.3.1 If the BENEFICIARY fails to pay the outstanding invoice upon the expiration of the Curative Payment Period with notice given to both Parties and the TECHNOLOGY VENDOR does not pay the BENEFICIARY's outstanding invoice during the Curative Payment Period, this Agreement will automatically terminate.

5.3.2 If the TECHNOLOGY VENDOR fails to pay the outstanding invoice upon the expiration of the Curative Payment Period with notice given to both Parties and the BENEFICIARY does not pay the TECHNOLOGY VENDOR's outstanding invoice during the Curative Payment Period, this Agreement will automatically and immediately terminate and all Deposit Materials previously deposited will be returned to the TECHNOLOGY VENDOR, even if no written or electronic response has been received from the BENEFICIARY. If no written or electronic response has been received from the TECHNOLOGY VENDOR, then the Deposit Materials will be destroyed.

5.4 All monies received by the ESCROW AGENT are NON-REFUNDABLE payments.

5.5 The ESCROW AGENT is not obligated or required to examine or inspect the Deposit Materials. The ESCROW AGENT'S obligation is limited to providing the same degree of care for the Deposit Materials as it maintains for its valuable documents and those of its customers.

5.6 The ESCROW AGENT may rely upon representations made by individuals of the respective BENEFICIARY and the TECHNOLOGY VENDOR of their representative capacity within the respective Party and authority to act on behalf of the respective Party. The ESCROW AGENT shall be protected from actions by the BENEFICIARY and/or the TECHNOLOGY VENDOR in acting upon any notice, request, waiver, consent, receipt, or

other paper or document furnished to it not only in assuming its due execution, but also as to the truth of any information contained therein.

6. OWNERSHIP OF DEPOSIT MATERIALS

6.1 The TECHNOLOGY VENDOR shall be the legal owner of the escrowed Deposit Materials and the documentation and other information embodied in such and at all times, subject only to the claims of the BENEFICIARY as described herein.

6.2 The ESCROW AGENT, the TECHNOLOGY VENDOR and the BENEFICIARY recognize and acknowledge that ownership of the Deposit Materials itself and any programmer documentation (together with all copyright rights and proprietary rights therein) shall continue as belonging to the TECHNOLOGY VENDOR at all times.

6.3 The ESCROW AGENT has the right to make copies or reproduce the Deposit Materials only as is reasonably necessary to perform or fulfill the terms of this Agreement. In the event that Deposit Materials are provided to the ESCROW AGENT by Electronic Delivery, the ESCROW AGENT reserves the right to produce one archival physical copy and will follow the procedures for storing the physical copy as outlined within this Agreement.

7. TERM AND TERMINATION

7.1 The initial term of this Agreement is for a period of one (1) year. Thereafter, this Agreement shall automatically renew from year-to-year and the annual renewal fees in accordance with Exhibit B, attached hereto and titled, "PRICE SCHEDULE" will be due upon the anniversary of the Effective Date of this Agreement, the ESCROW AGENT providing both the TECHNOLOGY VENDOR and BENEFICIARY at least thirty (30) days physical or electronic advance notice of the renewal fees, unless:

7.1.1 an officer of the TECHNOLOGY VENDOR and an officer the BENEFICIARY jointly instruct the ESCROW AGENT in writing that the Agreement is terminated; or

7.1.2 the ESCROW AGENT instructs the TECHNOLOGY VENDOR and the BENEFICIARY pursuant to the provisions of

§9.14 that the Agreement is terminated for nonpayment in accordance with §5.1; or

7.1.3 the ESCROW AGENT and BENEFICIARY reserve the right to terminate this Agreement, for any reason, other than nonpayment, by providing the other Parties sixty (60) days' written notice of the intent to terminate this Agreement.

7.2 Upon termination of this Agreement or if a copy of the Deposit Materials is delivered to the BENEFICIARY pursuant to the Notice of Default procedures set forth herein, the ESCROW AGENT'S duties with respect to such Deposit Materials shall terminate on the date of such delivery.

7.3 Upon termination of this Agreement, the obligations of confidentiality with regards to the Deposit Materials, obligations of the TECHNOLOGY VENDOR and BENEFICIARY to pay any fees and expenses due to the ESCROW AGENT, and all terms of §9 "GENERAL TERMS" of this Agreement survive and remain binding on the TECHNOLOGY VENDOR, the BENEFICIARY, and the ESCROW AGENT.

8. CONSENT TO ELECTRONIC COMMUNICATION

8.1 Unless expressly stated, all communications between the Parties will be electronic to the email addresses provided below. It is expressly understood by the Parties that each Party will maintain and monitor at least one email address provided below and provide the ESCROW AGENT with an updated email address should the defined address below, be changed or modified.

8.1.1 ESCROW AGENT:

Email: dbaka@nationalsoftwareescrow.com

Backup Email: dbaka@twc.com

8.1.2 TECHNOLOGY VENDOR:

Email:

Backup Email:

8.1.3 BENEFICIARY:

Email:

Backup Email:

8.2 Each Party expressly agrees to maintain and update the above email addresses. The ESCROW AGENT is not liable under any theory, for missed electronic communications pursuant to this Agreement.

9. GENERAL

9.1 Except as provided in this Agreement, the ESCROW AGENT agrees that it shall not divulge or disclose or otherwise make available to any third person whatsoever, or make any use whatsoever of the Deposit Materials without the express prior consent of the TECHNOLOGY VENDOR, by any form of communication identified in §9.14.

9.2 The ESCROW AGENT shall not, by reason of its execution of this Agreement, assume any responsibility or liability for any transactions between the TECHNOLOGY VENDOR and the BENEFICIARY other than for the performance of its obligations with respect to the Deposit Materials held by it in accordance with this Agreement. The TECHNOLOGY VENDOR shall indemnify and hold harmless the ESCROW AGENT from any and all liability, damage, costs or expenses, including reasonable attorney's fees, which may be sustained or incurred by the ESCROW AGENT as a result of taking any action on behalf of or pursuant to instructions from any other Party.

9.3 THE ESCROW AGENT HEREBY DISCLAIMS THE UNIFORM COMMERCIAL CODE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES OF ANY NATURE OR KIND.

9.4 The ESCROW AGENT'S liability to the TECHNOLOGY VENDOR and the BENEFICIARY shall be limited to the return of the Deposit Materials to whichever Party is entitled to it pursuant to this Agreement, unless destroyed pursuant to §5.3.2 or performing its obligations under §2.4 of this Escrow Agreement. IN NO EVENT SHALL THE ESCROW AGENT BE LIABLE FOR PUNITIVE, CONSEQUENTIAL OR OTHER DAMAGES TO EITHER THE TECHNOLOGY VENDOR OR THE BENEFICIARY. DAMAGES SHALL BE LIMITED TO THE SUM OF ALL ESCROW FEES PREVIOUSLY PAID BY THE TECHNOLOGY VENDOR AND THE BENEFICIARY UNDER THE TERMS OF THIS ESCROW AGREEMENT.

- 9.5 This Escrow Agreement shall not be waived, amended, or modified except by written or electronic agreement of all of the Parties hereto. Any invalidity in whole or in part of any provision of this Escrow Agreement will not affect the validity of any of its other provisions.
- 9.6 All Parties to this Agreement represent and warrant that the execution, delivery and performance of this Agreement have been duly authorized and signed by a person approved to sign on behalf of the respective Party as named.
- 9.7 All disputes involving a State cause of action against the ESCROW AGENT or to which the ESCROW AGENT is a Party which arise under this Agreement must be filed in a state court located in Colorado, which shall have exclusive jurisdiction over state law matters. The TECHNOLOGY VENDOR and the BENEFICIARY expressly waive any and all objection to personal jurisdiction in this venue. The Parties irrevocably submit to such state court's jurisdiction hereby waiving any claim of inconvenient forum. Notwithstanding the foregoing and §9.8 below, jurisdiction, venue and forum (mediation, arbitration, litigation, administrative proceeding, etc.) for any disputes solely as between the TECHNOLOGY VENDOR and the BENEFICIARY (and specifically excluding the ESCROW AGENT) shall be subject to the terms of the License Agreement.
- 9.8 All disputes involving a Federal cause of action arising under this Agreement must be filed in the District of Colorado, which shall have exclusive jurisdiction over federal matters. The TECHNOLOGY VENDOR and the BENEFICIARY expressly waive any and all objections to personal jurisdiction in this venue. The Parties irrevocably submit to such federal court's jurisdiction hereby waiving any claim of inconvenient forum.
- 9.9 The ESCROW AGENT shall not be liable for any failure to perform its obligations in connection with this Agreement if such failure results from any act of God, riot, war, civil unrest, flood, earthquake, or other cause beyond such Party's reasonable control including any mechanical, electronic, Internet, server, Internet Service Provider (ISP), or communications failure.
- 9.10 This Agreement controls the Parties' respective obligations concerning only the subject matter hereof. To the extent of a conflict between the License Agreement and this Agreement concerning the ESCROW AGENT's duties, this Agreement controls. And, to the extent this Agreement modifies the TECHNOLOGY VENDOR's and the BENEFICIARY's respective obligations under the License Agreement concerning an escrow arrangement of the Deposit Materials and related documentation, then this Agreement also controls.
- 9.11 The validity and effect of this Agreement and the rights and obligations of the Parties hereto shall be construed and determined in accordance with the laws of the State of Colorado excluding its conflicts of law provisions.
- 9.12 This Agreement shall be binding upon and shall inure to the benefit of the transferees, successors and assigns of the Parties including, but not limited to, any company or corporation with which a Party may merge or consolidate. In the event of a permitted transfer of this Agreement by a Party, the transferring Party is required to notify the ESCROW AGENT and the TECHNOLOGY VENDOR or the BENEFICIARY, whichever is appropriate, of the transfer of this asset to a transferee within ten (10) days of the effective date of the transfer. If no notice is provided, then the ESCROW AGENT is entitled to rely upon providing communications to the Party pursuant to §9.14.
- 9.13 Numbers and titles to paragraphs hereof are for information purposes only and, where inconsistent with the text, are to be disregarded.
- 9.14 All notices, affidavits, sworn statements or all other communications required or which may be given pursuant to this Agreement shall be in writing and shall be delivered personally, faxed with a copy sent contemporaneously by first class mail, or sent by certified, registered, or express mail, postage prepaid, or electronically to the last email address of record, to the appropriate address set forth below, or as later updated by a Party in a manner complying with this §9.14. The TECHNOLOGY VENDOR, the BENEFICIARY and the ESCROW AGENT are REQUIRED to update all contact information pursuant to this section within thirty (30) days of any change. Failure to comply with this update provision will relieve the ESCROW AGENT of any liability for any notices, affidavits, sworn

statements or all other communications required or which may be given pursuant to this Agreement which were not received by the Party failing to comply with this section.

term or condition of this Agreement will not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition by the other Party.

9.15 The failure of either Party to assert a right hereunder or to insist upon compliance with any



ACKNOWLEDGED AND ACCEPTED

NATIONAL SOFTWARE ESCROW, INC. ("ESCROW AGENT")

Address: 8225 Brecksville Road, Building 3, Suite 105, Brecksville, Ohio 44141
To the Attention of:

Signed: _____

By: _____

Title: _____

Email: _____

CHENOSA SYSTEMS CORPORATION, DBA PROPHOENIX ("TECHNOLOGY VENDOR")

Address: 502 Pleasant Valley Avenue, Moorestown, NJ 08057
To the Attention of:

Signed: _____

By: _____

Title: _____

Email: _____

CITY OF PUEBLO, COLORADO ("BENEFICIARY")

Address: 1 City Hall Place, Pueblo, CO 81003
To the Attention of:

Signed: _____

By: _____

Title: _____

Email: _____

DEPOSIT MATERIALS IDENTIFICATION AND CERTIFICATION

ESCROW FORM 2.1

Program	Release, Version Info	Format	
(1)		Electronic []	Hardcopy []
(2)		Electronic []	Hardcopy []
(3)		Electronic []	Hardcopy []
(4)		Electronic []	Hardcopy []

DEPOSIT MATERIAL INFORMATION:

Is the media or are any of the files encrypted? Yes / No If yes, please include any passwords and the decryption tools.

Encryption tool name

Version

Encryption Password:

Hardware required

Software required

Other required information

PROPHOENIX CORPORATION
("TECHNOLOGY VENDOR")

Signed: _____

By: _____

Title: _____

Date: _____

cc: CITY OF PUEBLO, COLORADO
("BENEFICIARY")

** Upon receipt of Deposit Materials submitted by Physical Delivery, National Software Escrow, Inc. will open package containing Deposit Materials (unless EXPLICITLY identified and agreed upon by both the TECHNOLOGY VENDOR and BENEFICIARY as being a "sealed package"), in order to perform a visual inspection verifying that Deposit Materials exist and are not damaged. Photocopy of tangible medium or media will be made.

EXHIBIT B
PRICE SCHEDULE*

ESCROW Fees: (To be paid for by BENEFICIARY)

Annual Escrow Fee per Deposit Materials	1st Year	\$950.00**
	Renewal Fee	\$750.00***

An additional \$250.00 will be added to BOTH the TECHNOLOGY VENDOR'S and BENEFICIARY'S 1st year fees if substantive modifications are made to this Escrow Agreement, the determination being made in the sole discretion of the ESCROW AGENT and communicated to both PARTIES before signatures and fee payments.

Miscellaneous Fees: (To be paid for by BENEFICIARY)

Update Fees per change (Includes notification to BENEFICIARY)	\$75.00**
Release Request - Per BENEFICIARY (BENEFICIARY Request for Release Based Upon Terms and Conditions of Escrow Agreement)	\$250.00**

* See §5.1 for late payment fees.

** non-refundable fee

*** may be refundable at the discretion of the Escrow Agent



EXHIBIT C

Date:

National Software Escrow, Inc.
Attn: President
8225 Brecksville Road
Building Three, Suite #105
Brecksville, Ohio 44141

Re: Software Escrow # _____ between National Software Escrow, Inc., the ("ESCROW AGENT") and _____, the ("TECHNOLOGY VENDOR") and; _____ ("BENEFICIARY").

Dear National Software Escrow, Inc.:

Pursuant to Section 2.3.6 in Software Escrow # _____, the TECHNOLOGY VENDOR and BENEFICIARY hereby authorize National Software Escrow, Inc. ("ESCROW AGENT") to make a copy of the *{Insert Date of Deposit}* Deposit Materials which has been identified by the TECHNOLOGY VENDOR as *{Insert Program Name, Release, Version info, etc.}* and send a copy via Federal Express to *{Insert Company Name}* to be delivered on *{Insert Date}* to the following address:

Company Name
Recipient Name
Address
City, State, Zip
Country
Email Address
Office Phone:
Cell Phone:

Testing of said Deposit Materials will be completed within 10 business days from the date of receipt and that the recipient and/or organization will make no further copies of the Deposit Materials, other than the one permitted for verification purposes and that after the verification purpose is complete, they will destroy any copies made and/or return the copies to National Software Escrow, Inc.

In the event that the Deposit Materials have been identified by the TECHNOLOGY VENDOR as being encrypted, National Software Escrow, Inc. may deliver the encrypted password to _____ by electronic mail to the recipient's email address noted above.

By signing this, both TECHNOLOGY VENDOR and BENEFICIARY agree to this plan, have the capacity to bind their organizations in the manner which they have indicated and request that National Software Escrow, Inc. complete the copy and sending of the Deposit Materials identified above.

Signed by:

("TECHNOLOGY VENDOR")

Address:

To the Attention of:

Signed: _____

By: _____

Title: _____

Email: _____

("BENEFICIARY")

Address:

To the Attention of:

Signed: _____

By: _____

Title: _____

Email: _____



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

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 ROBERT HUDGENS, SHAWN SHELTON, AND FRANK NEMICK TO SERVE A THREE-YEAR TERM EXPIRING APRIL 1, 2025 ON THE FIRE BOARD OF APPEALS

SUMMARY:

This Resolution confirms the appointment by the Mayor of Robert Hudgens, Shawn Shelton, and Frank Nemick to serve three-year terms expiring on April 1, 2026 on the Fire Board of Appeals.

PREVIOUS COUNCIL ACTION:

The Mayor has made appointments to the Fire Board of Appeals selecting individuals to serve terms which expire during a particular calendar year and presented them to Council for approval.

BACKGROUND:

Due to term expirations, there are three spots available to serve terms on the Fire Board of Appeals.

FINANCIAL IMPLICATIONS:

This is a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

Remove from agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Fire BOA - Hudgens
2. Fire BOA - Nemick
3. Fire BOA - Shelton

RESOLUTION NO. 15199

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF ROBERT HUDGENS, SHAWN SHELTON, AND FRANK NEMICK TO SERVE A THREE-YEAR TERM EXPIRING APRIL 1, 2025 ON THE FIRE BOARD OF APPEALS

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Robert Hudgens, Shawn Shelton, and Frank Nemick to the Fire Board of Appeals; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The appointment by the Mayor of Robert Hudgens, Shawn Shelton, and Frank Nemick to the Fire Board of Appeals to complete a three-year term expiring April 1, 2026 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.

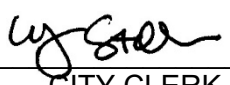
SECTION 3.

This Resolution shall become effective on the date of final action by the Mayor and City Council.

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

From: noreply@civicplus.com
To: [CityAdmin](#)
Subject: [External] Online Form Submittal: BOARDS & COMMISSIONS Application
Date: Thursday, March 16, 2023 2:32:18 PM

External email. Please use caution.

BOARDS & COMMISSIONS Application

BOARDS & COMMISSIONS Application for Appointment	
(Section Break)	
DATE	3/16/2023
BOARD OR COMMISSION	Fire Board of Appeals
Contact Information	
FIRST NAME	Robert
LAST NAME	Hudgens
HOME ADDRESS	13 Deer Run Ct.
CITY	Pueblo
STATE	CO
ZIP	81001
OFFICE ADDRESS	<i>Field not completed.</i>
CITY	<i>Field not completed.</i>
STATE	<i>Field not completed.</i>
ZIP	<i>Field not completed.</i>
DAYTIME PHONE	<i>Field not completed.</i>
E-MAIL ADDRESS	<i>Field not completed.</i>
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 - Fire Captain

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.

41 years on the Pueblo fire department
Countless fire inspections over those years

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

To assist my previous with appeals as they arise

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

To treat any person or business with respect if they have an
appeal

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.](#)

From: noreply@civicplus.com
To: [CityAdmin](#)
Subject: [External] Online Form Submittal: BOARDS & COMMISSIONS Application
Date: Monday, March 20, 2023 5:05:33 PM

External email. Please use caution.

BOARDS & COMMISSIONS Application

BOARDS & COMMISSIONS Application for Appointment

(Section Break)

DATE	3/20/2023
BOARD OR COMMISSION	Fire Board of Appeals
Contact Information	
FIRST NAME	Frank
LAST NAME	Nemick
HOME ADDRESS	4730 Pearcrest Ct
CITY	Pueblo
STATE	CO
ZIP	81005
OFFICE ADDRESS	<i>Field not completed.</i>
CITY	<i>Field not completed.</i>
STATE	<i>Field not completed.</i>
ZIP	<i>Field not completed.</i>
DAYTIME PHONE	7197661686
E-MAIL ADDRESS	fnemick@socolo.net
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 Pueblo Fire Dept

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.

30 yr Firefighter

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

Help people understand fire codes

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

Field not completed.

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.](#)

From: noreply@civicplus.com
To: [CityAdmin](#)
Subject: [External] Online Form Submittal: BOARDS & COMMISSIONS Application
Date: Tuesday, February 7, 2023 8:00:20 AM

External email. Please use caution.

BOARDS & COMMISSIONS Application

BOARDS & COMMISSIONS Application for Appointment	
(Section Break)	
DATE	2/7/2023
BOARD OR COMMISSION	Fire Board of Appeals
Contact Information	
FIRST NAME	Shawn
LAST NAME	Shelton
HOME ADDRESS	804 36th Lane
CITY	Pueblo
STATE	Co
ZIP	81006
OFFICE ADDRESS	Field not completed.
CITY	Field not completed.
STATE	Field not completed.
ZIP	Field not completed.
DAYTIME PHONE	Field not completed.
E-MAIL ADDRESS	Field not completed.
ARE YOU CURRENTLY EMPLOYED WITH	NO

THE CITY OF
PUEBLO?

ARE YOU A
RESIDENT OF THE
CITY OF PUEBLO?

NO

OCCUPATION (or if
RETIRED, your
previous occupation)

City of Pueblo Fire Chief

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 have 32 years of experience in the fire service, many of which involved studying and applying the fire code. I also have experience in dealing with and resolving disputes centered around the fire code.

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

Public service has been a vital part of my life and serving on this board would further that commitment to the community.

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

To fairly and evenly enforce the fire code especially where the safety of the community is concerned. To help businesses understand the underlying reason for fire codes and assist them in finding an equitable solution to barriers the fire code might present to their success.

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

I have previously served on this board and am happy to offer my help once again.

Thank You!

(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: April 10, 2023

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 KURT MADIC TO THE PUEBLO DEPOT ACTIVITY DEVELOPMENT
AUTHORITY BOARD OF DIRECTORS, AKA PUEBLOPLEX

SUMMARY:

This Resolution confirms the appointment by the Mayor of a member to the Pueblo Depot Activity Development Authority Board of Directors to serve a four-year term expiring May 9, 2027.

PREVIOUS COUNCIL ACTION:

The Mayor has made appointments to the Pueblo Depot Activity Development Authority Board of Directors, AKA PuebloPlex selecting individuals to serve terms which expire during a particular calendar year and presented them to Council for approval.

BACKGROUND:

Due to the term expiration of Kurt Madic, there is one spot available to serve a four-year term expiring May 9, 2027 on the Pueblo Depot Activity Development Authority Board of Directors, aka PuebloPlex.

FINANCIAL IMPLICATIONS:

This a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

Remove from agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. PDADA - Madic

RESOLUTION NO. 15200

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE
MAYOR OF KURT MADIC TO THE PUEBLO DEPOT ACTIVITY
DEVELOPMENT AUTHORITY BOARD OF DIRECTORS, AKA
PUEBLOPLEX

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Kurt Madic to the Pueblo Depot Activity Development Authority Board of Directors to serve a four-year term expiring May 9, 2027; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The appointment by the Mayor of Kurt Madic to the Pueblo Depot Activity Development Authority Board to serve a four-year term expiring May 9, 2027 shall be and hereby is 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 on the date of final action by the Mayor and City Council.

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

From: noreply@civicplus.com
To: [CityAdmin](#)
Subject: [External] Online Form Submittal: BOARDS & COMMISSIONS Application
Date: Sunday, March 26, 2023 10:04:53 AM

External email. Please use caution.

BOARDS & COMMISSIONS Application

BOARDS & COMMISSIONS Application for Appointment

(Section Break)

DATE	3/26/2023
------	-----------

BOARD OR COMMISSION	Pueblo Depot Activity Dev. Authority Board
------------------------	--

Contact Information

FIRST NAME	Kurt
------------	------

LAST NAME	Madic
-----------	-------

HOME ADDRESS	3507 Lucia Ct.
--------------	----------------

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

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

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

OFFICE ADDRESS	3507 Lucia Ct.
----------------	----------------

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

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

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

DAYTIME PHONE	719-250-0353
---------------	--------------

E-MAIL ADDRESS	kmadic@comcast.net
----------------	--------------------

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)

Senior Project Manager

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 have over 30 years of experience across many different fields and industries, with the majority of this time spent in leadership and project management roles. I have more than 10 years as a Certified Project Management Professional (PMP) and a Lean Six Sigma (LSS) Black Belt. LSS is a quality methodology which helps improve organizational top and bottom line performance by removing wastes and inefficiencies and inserting automation in end to end processes. I also possess an MBA and an undergraduate degree in Information Technology.

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

I have been on this board for 8 years and I would like to serve another term. I want to see Pueblo grow into the best City we all know it can be. I want there to be good opportunities for our children, our grandchildren, and for our best and brightest. The redevelopment of the Pueblo Chemical Depot has the potential to create amazing long-term growth opportunities for Pueblo and its citizens. I want to continue being a part of helping this vision become a reality for future generations.

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

I would like to see the redevelopment strategic plan executed to completion with all space utilized in a variety of different industries and capacities which employ thousands of professional and technical personnel. I would also like to help keep the thousands of PCAPP personnel currently employed in the community through job retention and retraining efforts.

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

I currently have been serving on this board for the past 8 years as Vice Chair and have been intimately involved with this organization. There is a large learning curve when joining this board and the many complex issues involved. I would be able to be effective on Day 1 if reappointed. I have a good understanding of what it takes to successfully recruit companies and industries to the Pueblo area and how best to re-develop the incredible 23,000 acres and assets of PuebloPlex.

(Section Break)

Upload résumé,

Field not completed.

references and/or other
pertinent information

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



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

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 AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-23-12) TO THE FOOD TRUCK UNION, LLC., A COLORADO LIMITED LIABILITY COMPANY, FOR USE OF THE PUBLIC RIGHT-OF-WAY ALONG GOODNIGHT AVENUE IN CITY PARK TO FACILITATE FOOD TRUCK UNION EVENTS ON CERTAIN SPECIFIED DATES BETWEEN APRIL 7, 2023 AND OCTOBER 31, 2023

SUMMARY:

Attached is a draft Revocable Permit for The Food Truck Union, LLC., to utilize the public right-of-way along Goodnight Avenue in City Park for the purpose of facilitating food truck events in Mineral Palace Park on selected dates between April 7, 2023, and October 31, 2023.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The Food Truck Union, LLC., will be hosting weekly food truck events in Mineral Palace Park between April 2023 and October 2023. The Food Truck Union, LLC., has requested the issuance of a revocable permit for the use Goodnight Avenue as the proposed location for their weekly food truck events. A detour along Lake Joy Drive will be established while Goodnight Avenue is closed.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

The Revocable Permit Review Committee recommends approval.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

Failure to approve the Resolution will prevent the applicant from being able to utilize the Goodnight Avenue right-of-way.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Revocable Permit - Food Truck Union (REV-23-12)

RESOLUTION NO. 15201

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-23-12) TO THE FOOD TRUCK UNION, LLC., A COLORADO LIMITED LIABILITY COMPANY, FOR USE OF THE PUBLIC RIGHT-OF-WAY ALONG GOODNIGHT AVENUE IN CITY PARK TO FACILITATE FOOD TRUCK UNION EVENTS ON CERTAIN SPECIFIED DATES BETWEEN APRIL 7, 2023 AND OCTOBER 31, 2023

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The attached Revocable Permit is authorized to be issued to The Food Truck Union, LLC., a Colorado Limited Liability Company, for use of the Goodnight Avenue right-of-way to facilitate their food truck events in City Park.

SECTION 2.

The use of the public right-of-way granted hereby is subject to all limitations, terms, and conditions set forth in the attached Revocable Permit.

SECTION 3.

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

SECTION 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

REVOCABLE PERMIT

Pursuant to the authority granted by Section 16-9 of the Charter of Pueblo, a Municipal Corporation, (the "City"), the City Council of City hereby grants the following revocable permit to Permittee subject to and conditioned upon the provisions herein contained and the Permittee's compliance therewith:

1. Name, Address and Telephone Number of Permittee: **The Food Truck Union 12 Ramsgate Pl Pueblo, CO 81001 7192507971 City of Pueblo Parks & Recreation**
2. Permitted Area: **Goodnight Ave. in City Park between Lake Joy Drive and S. Parkside Lane**
3. Purpose of Revocable Permit: **Closure of the permitted area to vehicular traffic on Sundays between 4/16/2023 through 10/31/2023 during the hours of 8:00 AM until Sunset when Park rides are not operating or until 9:00 PM when Park rides are operating.**
4. Commencement Date: **April 16, 2023** Time: **8am**
5. Ending Date: **October 31, 2023** Time: **Dark or 9pm when Rides Close**

PERMITTEE IN CONSIDERATION OF THE ISSUANCE AND GRANTING OF THE ABOVE DESCRIBED REVOCABLE PERMIT (THE "PERMIT") REPRESENTS, WARRANTS AND AGREES:

- (a) The Permitted Area shall be used for the above-specified Purpose of Revocable Permit. No use of the Permitted Area shall be made before the time of the Commencement Date.
- (b) All structures, fences, tables, chairs, equipment or other improvements authorized to be placed in the Permitted Area by Permittee (the "Improvements") shall be constructed, installed, and maintained by Permittee in compliance with all applicable codes, ordinances, rules and regulations of City and this Permit.
- (c) If the Revocable Permit is issued for a sidewalk café, the Permittee and sidewalk café shall be subject to all the provisions, conditions and requirements contained in section 9-10-84 of the Pueblo Municipal Code, or as same may be amended, which are incorporated herein by reference. In addition, no Improvement shall be tied-down or chained to any tree within or adjacent to the Permitted Area nor shall any Improvement be installed or located in such a manner as to hinder or interfere with the opening of motor vehicle doors or passenger movement to and from motor vehicles parked adjacent to or near the Permitted Area.
- (d) If this Permit is issued for the use of the public right-of-way for a special event, Permittee shall deposit with the City the sum of \$500.00 ("Deposit"). The Deposit will be forfeited to the City if Permittee does not remove all Permittee's equipment and property from, and clean and restore the Permitted Area to its original condition before the Time of the Ending Date. If so timely removed and cleaned, the Deposit will be returned to Permittee.
- (e) Before the Time of the Ending Date, or immediately upon any other termination of this Permit, Permittee shall, at Permittee's expense, remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition. Failure to timely remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition shall constitute Permittee's abandonment of the Permittee's Improvements, and City may, at Permittee's expense, remove and dispose of Permittee's Improvements and clean and restore the Permitted Area to its original condition. Permittee agrees to pay all City's costs and expenses, including reasonable attorney fees, incurred in the enforcement of this Permit.
- (f) Permittee shall keep all Improvements and Permitted Area in good, clean and safe condition and repair, free from litter, waste and debris.
- (g) Permittee shall indemnify, defend and hold City, its officers, agents and employees harmless from and against any and all suits, claims, liabilities, loss, damages and expenses, including reasonable attorney fees and cost of defense, arising, directly or indirectly, from or caused by the issuance of this Permit or the conditions hereof, or the existence, construction, installation, repair or maintenance of the Improvements in the Permitted Area, or the use of the Permitted Area or Improvements by Permittee, its officers, agents, employees, invitees or general public.
- (h) Neither this Permit nor any of the privileges granted to Permittee hereby, may be conveyed, assigned, transferred or sublet by Permittee without the prior written consent of the City Council of City. Any attempted conveyance, assignment, transfer or subletting of the Permit or Permitted Area without the written consent of the City Council of Pueblo shall be void and of no effect and shall cause this Permit to be automatically revoked.
- (i) Permittee shall keep and maintain commercial general liability insurance covering the Permitted Area and Improvements in amounts not less than \$1,000,000.00 combined single limits per occurrence and aggregate, naming the City as an additional insured and contain a waiver of rights of subrogation against City. A certificate for such insurance and each renewal thereof shall be delivered to the City. Failure to maintain such insurance shall cause this Permit to be automatically revoked.
- (j) Trees, landscaping and shrubbery within or adjacent to the Permitted Area shall be protected from damage or injury by Permittee and shall not be removed except after receipt by the Permittee of the written consent of the City's Director of Parks and Recreation. Covid-19
- (k) Any notice or other document required or permitted herein shall be in writing and delivered personally or by first class mail, postage prepaid, as follows:

(i) If to Permittee, at the address shown in paragraph 1 above.

(ii) If to City, 1 City Hall Place, Pueblo, Colorado, 81003, Attention: Revocable Permit Review Committee. Each party reserves the right to change its address provided notice of such change is given in accordance with this paragraph (k).

(l) City reserves and is hereby granted by Permittee access to, under and through the Permitted Area for any and all purposes. City may injure, damage or remove any and all Permittee's Improvements in the Permitted Area in exercising the right of access hereby reserved and granted. Permittee assumes the risk of injury, loss and damage to Permittee's Improvements within the Permitted area, and City shall have no responsibility or liability for any damage or injuries thereto, whatsoever the cause, including, but not limited to, the acts or omissions of City, its officers, employees, or agents.

(m) This Permit shall terminate upon the occurrence of any one of the following events: (i) the Time of the Ending Date, (ii) abandonment or nonuse by Permittee for a period of three (3) consecutive months, (iii) surrender or cancellation of the Permit in writing by Permittee, (iv) automatic revocation as provided in paragraphs (h) and (i) above; (v) revocation or termination of this Permit by resolution of the City Council of City; or (vi) revocation by the Mayor as provided in paragraph (p). The termination of this Permit shall not relieve Permittee from Permittee's obligations under paragraph (f) until the Authorized Improvements have been removed by Permittee in compliance with paragraph (e).

(n) Permittee acknowledges and agrees that this Permit is temporary and subject to revocation or termination by resolution of the City Council of City, in its sole discretion, for any reason or no reason, at anytime, without liability to City, and without notice to or hearing by Permittee. Permittee waives any and all right or claim to such notice, hearing, and liability of the City.

(o) Permittee acknowledges and agree that use of the Permitted Area shall be conducted in compliance with applicable laws and regulations including but not limited orders, regulations and directives issued by the Governor, Colorado Department of Public Health and Environment and the Pueblo County Department of Public Health and Environment with respect to COVID-19 ("COVID-19 Regulations"). Seven days prior to Commencement Date, Permittee shall submit in writing to the Revocable Permit Review Committee those actions Permittee shall take to assure protection of the public health and compliance with COVID-19 Regulations.

(p) Permittee further acknowledges and agrees that this Permit is temporary and subject to revocation or termination if the purpose of the permit or any potential activities to be conducted under the Permit is determined by the Mayor of City, in his sole and absolute discretion, to not be in furtherance of and/or contrary to the public health or welfare due to COVID-19 or related issues. Such determination and termination may be issued at any time, without liability to City, and without notice to or hearing by Permittee. Permittee waives any and all right or claim to such notice, hearing, and liability of the City.

(q) Nothing in this Permit shall be interpreted to limit or prevent the protections afforded to City under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.

Signed in Pueblo, Colorado this _____ day of _____, 20_____.

PERMITTEE:

Organization or
Individual: _____

By: _____

Title: _____

STATE OF COLORADO)

COUNTY OF PUEBLO) SS..

The foregoing instrument was acknowledged before me the _____ day of _____, 20_____ by _____ as _____.

My commission expires: _____.

Notary Public

APPROVED this _____ day of _____, 20_____.
PUEBLO, a Municipal Corporation

By _____

Nicholas A. Gradisar, Mayor



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: April 10, 2023

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 CROSSROADS' TURNING POINTS, INC., 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 SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00) 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 Crossroads' Turning Points, Inc., a Colorado nonprofit corporation ("CTP" or "Crossroads") to (1) assist in the construction of a new facility located at 355 E. Spaulding Ave., Pueblo West, CO 81007 which would grow the number of beds available and increase CTP's capacity to provide services; and (2) to provide co-occurring (mental health together with substance use) disorder services to patients who were disproportionately impacted by the COVID-19 pandemic, from April 24, 2023 through December 31, 2026 (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 \$750,000.00 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:

Recent (pre-COVID) point-in-time statistics related to the incidence of individuals with co-occurring (mental health together with substance use) disorders showed that, in the United States, 19.3 million people aged 18 and older had a substance use disorder (SUD) while 51.5 million people aged 18 and older had a mental illness and 9.5 million people aged 18 or older had BOTH an SUD and mental illness. Since March, 2020 (the onset of the COVID pandemic) incidents of co-occurring disorders have increased tremendously causing a severe negative impact on public health which has been devastating in Pueblo County and southern and southeastern Colorado. There have been increases in calls to disaster distress helplines, increases in emergency room visits related to suicide attempts and overdoses, increases in domestic violence hotlines, increased reports of child abuse and infant deaths attributed to injuries related to child abuse and increases in substance use and opioid related deaths.

CTP currently offers its Circle Program to individuals with co-occurring (mental health together with substance use) disorders. This program offers comprehensive community-based residential treatment to individuals with co-occurring disorders. The goal of the Circle Program is to facilitate client stabilization, followed by engagement in continuing outpatient services, and continuing care to support an individual's ongoing management of their co-occurring substance use and mental health disorders. The program is designed to engage families, primary care medical providers, appropriate social support and recovery-oriented services and supports.

Prior to COVID, CTP was in the process of expanding its 16-bed Circle Program to more adequately meet the needs of this co-occurring population. With the social distancing mandates brought about by COVID, CTP's Circle Program was reduced to a 10-bed program. As Pueblo begins to recover and rebuild from the effects of COVID, CTP is strategically planning to increase the capacity of its Circle Program to ensure that the agency has the infrastructure in place to meet the increasing need for co-occurring services in the coming months and years. To accomplish this, CTP is submitting an ARPA application requesting funding to assist in the construction of a new facility which would grow the number of beds available and increase CTP's capacity to provide co-occurring services.

Having a larger facility will allow CTP more bed space and an increased capacity to serve a growing number of individuals with co-occurring disorders. Having the space to engage a greater number of individuals in co-occurring services equates to a healthier and more resilient community; not only for individuals, but also for their children, families and co-workers.

Funds in the amount of \$750,000.00 authorized to be paid to CTP under the attached ordinance will assist in the construction of a new facility located at 355 E. Spaulding Ave., Pueblo West, CO 81007. The new facility will contain 20 beds. CTP estimates that 10 beds will be filled by residents of Pueblo County and the remaining 10 beds will be utilized by Colorado residents from other counties.

Crossroads was founded in 1979 by a group of concerned citizens in Pueblo who took

action to develop services and programming to help individuals and families affected by substance abuse.

CTP has evolved into a sophisticated and responsive agency, working with community leaders, members of the public, law enforcement, healthcare and other community-based service agencies to become one of the region's leading providers of behavioral health programs and substance use disorder services. CTP has developed and enhanced its full continuum of services within Pueblo County, while also impacting an additional twenty-two counties in Southern and Southeastern Colorado. CTP strives to improve the overall health and life outcomes for clients by increasing access to its full-continuum of high-level, evidence-based substance use disorder services.

As the largest organization utilizing evidence-based curricula and best-practice programming for alcohol and SUD treatment, CTP delivers integrated comprehensive services in prevention, intervention, co-occurring treatment and recovery support services, as well as, withdrawal management (detoxification), regular and intensive outpatient services (including Medication Assisted Treatment-MAT), transitional residential and intensive residential programming. Crossroads also offers recovery support services that include the Peer Recovery Coaches and Sober Living Program.

CTP offers the following programs: Intervention Services, Substance Use Disorder (SUD) Treatment, Outpatient Treatment, Intensive Outpatient (IOP) Treatment, Intensive Case Management (ICM), Day Treatment, Family Center and Women's Residential Treatment, Women with Children, Women without Children, Pregnant Women: Special Connections, Men's Residential Treatment, Peer Recovery Coaches and Sober Living Program (Recovery), Medication Assisted Treatment (MAT), Offender Services, Strategic Individualized Remediation Treatment (STIRT), DUI Program, Co-occurring Services and has an Office of Prevention. Clients can seamlessly access all CTP treatment services and may move fluidly from one level of service and into another, depending on the needs of the client.

Substance use has multiple and broad impacts, and therefore treatment can have multiple effects. Disorders related to substance use also vary by the extent of substance use, the type of substance used, and severity of substance-related disorder. Moreover, it is important to recognize that the addictive disorders population is not uniform; it varies by gender, age, ethnicity and comorbidity. Hence, treatment interventions can have different outcomes when applied to different subgroups of the population, and outcome measures must account for these variations. Evaluation is complex and there are often overlapping reasons for conducting outcome evaluation and differing motivations of various parties who have an interest in outcomes data. For the purposes of this ARPA Project application, CTP will measure numbers of individuals served and percentage of programming completions.

31 CFR 35.6 provides that capital expenditures has the same meaning given in 2 CFR 200.1. Under 31 CFR 35.3, capital assets means:

(1) Tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:

1. Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, exchange, or through a lease accounted for as financed purchase under Government Accounting Standards Board (GASB) standards or a finance lease under Financial Accounting Standards Board (FASB) standards; and

1. Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance).

31 CFR 35.6(b)(3)(ii)(C) authorizes grants to nonprofits for construction and land acquisition purposes. 31 C.F.R. Part 35 implements section 9901 of ARPA and its amendments to the Social Security Act. Per 31 C.F.R. § 35.6(b)(3)(ii)(C), a recipient may use funds to respond to the public health emergency for certain enumerated eligible uses, including “Assistance to nonprofit organizations including programs, services, or *capital expenditures*, including loans or grants to mitigate financial hardship such as declines in revenues or increased costs, or technical assistance,” (emphasis added). The definition of capital expenditures includes construction and improvements.

This ARPA grant award is modeled after the State of Iowa’s “vertical infrastructure” program which provided up to \$3 million in ARPA funds, to nonprofits to offset the costs for the construction, acquisition, site development, engineering and architectural work for new and rehabilitated buildings from which nonprofit organizations would provide expanded services.

FINANCIAL IMPLICATIONS:

CTP will receive \$750,000 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 this ARPA Project.

RECOMMENDATION:

None.

ATTACHMENTS:

1. Subrecipient Agreement between City and Crossroads

ORDINANCE NO.

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND CROSSROADS' TURNING POINTS, INC., 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 SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00) 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; and

WHEREAS, under ARPA Section 603 (C)(1)(A) and (3) and the Final Rule 31 CFR 35.6(b)(7) recipients may use CLFR Funds to award grants to nonprofit organizations that are responding to the negative economic impacts of the COVID-19 public health emergency; NOW, THEREFORE,

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

SECTION 1.

The Subrecipient Agreement ("Agreement") dated April 24, 2023, between the City of Pueblo, a Colorado municipal corporation and Crossroads' Turning Points, Inc., ("CTP") a Colorado nonprofit corporation, 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 \$750,000.00 are hereby authorized to be paid from Project No. CI2113 – American Rescue Plan Act, to CTP to (1) assist in the construction of a new facility located at 355 E. Spaulding Ave., Pueblo West, CO 81007 ("new facility") which would grow the number of beds available and increase CTP's capacity to provide services; and (2) to provide co-occurring (mental health together with substance use) disorder services to patients who were disproportionately impacted by the COVID-19 pandemic from April 24, 2023 through December 31, 2026 both at its current facility and its new facility.

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 24th day of April, 2023 (hereinafter “Effective Date”) by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the “City” and Crossroads’ Turning Points, Inc., a Colorado nonprofit corporation, hereinafter referred to as the “Subrecipient” or “Crossroads” or “CTP.” City and Subrecipient/Crossroads/CTP 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, under ARPA Section 603 (c)(1)(A) and (3) and the Final Rule 31 CFR 35.6(b)(7) recipients may use CLFR Funds to award grants to nonprofit organizations that are responding to the negative economic impacts of the COVID-19 public health emergency; and

WHEREAS, Crossroads is requesting ARPA recovery funding in the amount of \$750,000 to (1) assist in the construction of a new facility located at 355 E. Spaulding Ave., Pueblo West, CO 81007 which would grow the number of beds available and increase CTP’s capacity to provide services; and (2) to provide co-occurring (mental health together with substance use) disorder services to patients who were

disproportionately impacted by the COVID-19 pandemic through December 31, 2026 (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) Recent (pre-COVID) point-in-time statistics related to the incidence of individuals with co- occurring (mental health together with substance use) disorders showed that, in the United States, 19.3 million people aged 18 and older had a substance use disorder (SUD) while 51.5 million people aged 18 and older had a mental illness and 9.5 million people aged 18 or older had BOTH an SUD and mental illness. Since March, 2020 (the onset of the COVID pandemic) incidents of co-occurring disorders have increased tremendously causing a severe negative impact on public health which has been devastating in Pueblo County and southern and southeastern Colorado. There have been increases in calls to disaster distress helplines, increases in emergency room visits related to suicide attempts and overdoses, increases in domestic violence hotlines, increased reports of child abuse and infant deaths attributed to injuries related to child abuse and increases in substance use and opioid related deaths.
- (b) Crossroads' Turning Points, Inc. (CTP) currently offers its Circle Program to individuals with co-occurring (mental health together with substance use) disorders. This program offers comprehensive community-based residential treatment to individuals with co-occurring disorders. The goal of the Circle Program is to facilitate client stabilization, followed by engagement in continuing outpatient services, and continuing care to support an individual's ongoing management of their co-occurring substance use and mental health disorders. The program is designed to engage families, primary care medical providers, appropriate social support and recovery-oriented services and supports.
- (c) Prior to COVID, CTP was in the process of expanding its 16-bed Circle

Program to more adequately meet the needs of this co-occurring population. With the social distancing mandates brought about by COVID, CTP's Circle Program was reduced to a 10-bed program. As Pueblo begins to recover and rebuild from the effects of COVID, CTP is strategically planning to increase the capacity of its Circle Program to ensure that the agency has the infrastructure in place to meet the increasing need for co-occurring services in the coming months and years. To accomplish this, CTP is submitting an ARPA application requesting funding to assist in the construction of a new facility which would grow the number of beds available and increase CTP's capacity to provide co-occurring services.

- (d) Having a larger facility will allow CTP more bed space and an increased capacity to serve a growing number of individuals with co-occurring disorders. Having the space to engage a greater number of individuals in co-occurring services equates to a healthier and more resilient community; not only for individuals, but also for their children, families and co-workers.
- (e) Crossroads was founded in 1979 by a group of concerned citizens in Pueblo who took action to develop services and programming to help individuals and families affected by substance abuse.
- (f) CTP has evolved into a sophisticated and responsive agency, working with community leaders, members of the public, law enforcement, healthcare and other community-based service agencies to become one of the region's leading providers of behavioral health programs and substance use disorder services. CTP has developed and enhanced its full continuum of services within Pueblo County, while also impacting an additional twenty-two counties in Southern and Southeastern Colorado. CTP strives to improve the overall health and life outcomes for clients by increasing access to its full-continuum of high-level, evidence-based substance use disorder services.
- (g) As the largest organization utilizing evidence-based curricula and best-practice programming for alcohol and SUD treatment, CTP delivers integrated comprehensive services in prevention, intervention, co-occurring treatment and recovery support services, as well as, withdrawal management (detoxification), regular and intensive outpatient services (including Medication Assisted Treatment-MAT), transitional residential and intensive residential programming. Crossroads also offers recovery support services that include the Peer Recovery Coaches and Sober Living Program.
- (h) CTP offers the following programs: Intervention Services, Substance Use Disorder (SUD) Treatment, Outpatient Treatment, Intensive Outpatient (IOP) Treatment, Intensive Case Management (ICM), Day Treatment, Family Center and Women's Residential Treatment, Women with Children,

Women without Children, Pregnant Women: Special Connections, Men's Residential Treatment, Peer Recovery Coaches and Sober Living Program (Recovery), Medication Assisted Treatment (MAT), Offender Services, Strategic Individualized Remediation Treatment (STIRT), DUI Program, Co-occurring Services and has an Office of Prevention. Clients can seamlessly access all CTP treatment services and may move fluidly from one level of service and into another, depending on the needs of the client.

- (i) Substance use has multiple and broad impacts, and therefore treatment can have multiple effects. Disorders related to substance use also vary by the extent of substance use, the type of substance used, and severity of substance-related disorder. Moreover, it is important to recognize that the addictive disorders population is not uniform; it varies by gender, age, ethnicity and comorbidity. Hence, treatment interventions can have different outcomes when applied to different subgroups of the population, and outcome measures must account for these variations. Evaluation is complex and there are often overlapping reasons for conducting outcome evaluation and differing motivations of various parties who have an interest in outcomes data. For the purposes of this ARPA Project application, CTP will measure numbers of individuals served and percentage of programming completions.
- (j) 31 CFR 35.6 provides that capital expenditures has the same meaning given in 2 CFR 200.1. Under 31 CFR 35.3, capital assets means:
 - (1) Tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:
 - (i) Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, exchange, or through a lease accounted for as financed purchase under Government Accounting Standards Board (GASB) standards or a finance lease under Financial Accounting Standards Board (FASB) standards; and
 - (ii) Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance).
- (k) 31 CFR 35.6(b)(3)(ii)(C) authorizes grants to nonprofits for construction and land acquisition purposes. 31 C.F.R. Part 35 implements section 9901 of ARPA and its amendments to the Social Security Act. Per 31 C.F.R. §

35.6(b)(3)(ii)(C), a recipient may use funds to respond to the public health emergency for certain enumerated eligible uses, including “Assistance to nonprofit organizations including programs, services, or capital expenditures, including loans or grants to mitigate financial hardship such as declines in revenues or increased costs, or technical assistance,” (emphasis added). The definition of capital expenditures includes construction and improvements.

- (l) This ARPA grant award is modeled after the State of Iowa’s “vertical infrastructure” program which provided up to \$3 million in ARPA funds, to nonprofits to offset the costs for the construction, acquisition, site development, engineering and architectural work for new and rehabilitated buildings from which nonprofit organizations would provide expanded services.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

- (a) Prior to receiving ARPA funds under this Agreement, Subrecipient is required to provide the City with the following information and documentation:
 - 1. Federal SAM Unique Entity ID;
 - 2. IRS designation as a 501(c)(3) nonprofit entity;
 - 3. Certificate of Good Standing from the Office of the Secretary of State;
 - 4. Documentation, in the form of grant awards or letters of commitment of grant awards, loans and donations and cash-on-hand, evidencing that Subrecipient has sufficient financial resources, in addition to this ARPA grant, to complete the Project.
- (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 Mayor shall be deemed the 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 Seven Hundred Fifty Thousand Dollars (U.S. \$750,000.00). City shall make said funds available 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. The use of said funds shall be limited to expenditures to offset the costs for the construction, development, engineering and architectural work for a new facility located at 355 E. Spaulding Ave., Pueblo West, CO 81007 ("Premises") from which the Subrecipient shall provide expanded services, as set forth in this Subrecipient Agreement. The grant funds shall not be distributed in a lump sum. Subrecipient shall provide the City with draw packages for the costs and expenses to construct and develop the Premises, including construction materials, labor costs, payments to a general contractor and subcontractors and all other construction-related expenses.
- (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, 2026 unless sooner terminated as herein provided.
- (b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2026 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 City for convenience upon ten (10) days written notice to Subrecipient, 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. 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. Subrecipient further agrees to indemnify and save harmless the City, its officers, agents and employees, from and against all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property or based upon or arising out of the performance or nonperformance of this Agreement by Subrecipient or out of any violation by Subrecipient of any statute, ordinance, rule or regulation.
- (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. The City does not waive or intend 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 AGAINST CITY. 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.

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]

CROSSROADS' TURNING POINTS, INC.
A COLORADO NONPROFIT CORPORATION

By: _____

Name: _____

Title: _____

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:

- (1) Use ARPA Funds for the construction, development, engineering and architectural work for a new facility located at 355 E. Spaulding Ave., Pueblo West, CO 81007 ("Premises") from which the Subrecipient shall provide expanded services.
- (2) Use ARPA Funds, at its current location and at its new Premises to operate its Circle Program to provide services to individuals with co-occurring (mental health together with substance use) disorders from the date of this Subrecipient Agreement through December 31, 2026.

C. Budget \$750,000.

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 this Agreement 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: April 10, 2023

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 ACCEPTING FUNDS IN THE AMOUNT OF \$116,533.87 FROM PUEBLO COUNTY FOR AVIATION FUEL TAXES COLLECTED THROUGH PUEBLO COUNTY SALES TAX COLLECTIONS, TO BE USED FOR ADVERTISING FOR THE PUEBLO MEMORIAL AIRPORT, AND BUDGETING AND APPROPRIATING SAID FUNDS TO PROJECT APAN01 - AIRPORT ADVERTISING

SUMMARY:

This Ordinance will accept Aviation Fuel Tax funds collected through Pueblo County Sales Tax collection.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

Pueblo County passed and approved Resolution 18-097 in 2018, transferring Aviation Fuel Tax funds to the City of Pueblo to be used for aviation related purposes, specifically advertising services. Pueblo County offices realized that Aviation Fuel Tax funds are to be transferred to the City of Pueblo annually, but due to an oversight, no transfer resolutions have been passed and approved since 2018. Pueblo County is now transferring Aviation Fuel Tax collections for 2019, 2020, 2021, and 2022, totaling \$116,533.87.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$116,533.87 will be budgeted and appropriated to Project APAN01 – Airport Advertising.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the City of Pueblo cannot accept the Aviation Fuel Tax funds from Pueblo County.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE ACCEPTING FUNDS IN THE AMOUNT OF \$116,533.87 FROM PUEBLO COUNTY FOR AVIATION FUEL TAXES COLLECTED THROUGH PUEBLO COUNTY SALES TAX COLLECTIONS, TO BE USED FOR ADVERTISING FOR THE PUEBLO MEMORIAL AIRPORT, AND BUDGETING AND APPROPRIATING SAID FUNDS TO PROJECT APAN01 - AIRPORT ADVERTISING

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

SECTION 1.

Aviation Fuel Tax collections in the amount of \$116,533.87 are hereby accepted from Pueblo County and are to be used for aviation related purposes, specifically advertising services.

SECTION 2.

Accepted funds in the amount of \$116,533.87 shall be budgeted and appropriated to Project No. APAN01 – Airport Advertising.

SECTION 3.

Any future Aviation Fuel Tax funds remitted to the City of Pueblo via Pueblo County shall also be budgeted and appropriated to Project No. APAN01 – Airport Advertising.

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 March 27, 2023.

Final adoption of Ordinance by City Council on April 10, 2023.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 10, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Chris Noeller, Chief of Police

SUBJECT: AN ORDINANCE APPROVING AND ACCEPTING A GRANT AND APPLICABLE CONDITIONS PERTAINING THERETO WITH THE STATE OF COLORADO DEPARTMENT OF LOCAL AFFAIRS (DOLA) PEACE OFFICERS MENTAL HEALTH SUPPORT GRANT PROGRAM, IN THE AMOUNT OF \$99,464.00 ESTABLISHING PROJECT NUMBER PS2301, AND BUDGETING AND APPROPRIATING FUNDS INTO PROJECT PS2301

SUMMARY:

This ordinance approves a grant award from the Department of Local Affairs and approves and accepts an initial grant award of \$99,464.00 into Project PS2301.

PREVIOUS COUNCIL ACTION:

On September 14, 2020, Council approved Resolution No. 14472, which authorized staff to submit an application requesting an award of this grant. On May 17, 2021, Council approved Ordinance No. 9923, which accepted and approved funds for the 2021 POMH Grant.

BACKGROUND:

The Peace Officers Mental Health Support grant program within the Department of Local Affairs (DOLA) is available for local law enforcement agencies to engage mental health professionals who can provide on-scene response services to support peace officers' handling of persons with mental health disorders and counseling services for peace officers.

This grant will improve the mental health of officers with the Pueblo Police Department by offering professional counseling for officers involved in shooting, fatal use of force, and other critical incidents. Contracted services from a qualified, competent mental health provider will be provided, in person or remotely, to peace officers involved in job-related traumatic situations. Services may include trauma therapy and treatment.

Peace officers may choose to use a different counselor and may be reimbursed for their out-of-pocket expenses.

Following trauma exposure, an individual experiences one or more aspects of physical and psychological symptoms that can affect their mental health. According to the American Journal of Managed Care, critical incident stress debriefing is a practice that allows officers to both process and reflect on the traumatic events they've experienced and gain personal control around the incident.

Continuous professional training and oversight for the peer support team (approximately 23 members) to ensure consistency and competency. Adding additional members to the peer support team and provide the required forty-hour training to new members.

All sworn department members will receive education and outreach opportunities to include wellness and resiliency topics. The book "Emotional Survival for Law Enforcement" will be provided to all officers through the funding of this grant. Pro-Social activities for officers and their families to receive a presentation by a licensed professional and peer support team will be offered throughout the year. Providing opportunities for officers to connect with peers will be a valuable strategy to address mental health issues.

Training and resources through this grant will be used exclusively for the 231 sworn law enforcement members of the Pueblo Police Department.

FINANCIAL IMPLICATIONS:

This grant is 100% funded by DOLA, with no matching funds. This grant requires monitoring, auditing, and submission of financial documents which will impact the City with staffing costs.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

The Pueblo Police Department supports the award and appropriation of the funds to establish additional mental health support for the officers.

ALTERNATIVES:

Decline this grant offer from the Department of Local Affairs Peace Officers Mental Health Support.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 23-534 Pueblo award letter
2. POMH 23-534 Terms and Conditions

ORDINANCE NO.

AN ORDINANCE APPROVING AND ACCEPTING A GRANT AND APPLICABLE CONDITIONS PERTAINING THERETO WITH THE STATE OF COLORADO DEPARTMENT OF LOCAL AFFAIRS (DOLA) PEACE OFFICERS MENTAL HEALTH SUPPORT GRANT PROGRAM, IN THE AMOUNT OF \$99,464.00 ESTABLISHING PROJECT NUMBER PS2301, AND BUDGETING AND APPROPRIATING FUNDS INTO PROJECT PS2301

WHEREAS, the City Council of Pueblo has the authority on behalf of the City of Pueblo, including its Police Department, to accept grants from the state government for public and municipal purposes and to enter into agreements relating thereto; and

WHEREAS, the State of Colorado Department of Local Affairs has tendered a Grant Award Letter including Terms and Conditions (the "Award") in the amount of \$99,464.00 for law enforcement training purposes for the Peace Officers Mental Health Support upon conditions recited therein or incorporated therein by reference;

WHEREAS, acceptance of the Award 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 Award of the State of Colorado Department of Local Affairs Peace Officer Mental Health Support Grant funding in the amount of \$99,464.00 is hereby approved and accepted in accordance with its terms and conditions.

SECTION 2.

The Police Department is empowered to apply for and accept additional grant awards pursuant to the Grant Agreement as those funds are made available by the State.

SECTION 3.

Project Number PS2301 is hereby established in the Public Safety Grants Fund. All current and future funds accepted under this ordinance shall be budgeted and appropriated into Project Number PS2301 by the Finance Department.

SECTION 4.

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 5.

This Ordinance shall become effective upon 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



COLORADO
Department of Local Affairs
Division of Local Government

January 24, 2023

The Honorable Nick Gradisar, Mayor
City of Pueblo
1 City Hall Place
Pueblo, CO 81003

Re: POMH 23-534 City of Pueblo Peace Officers Behavioral Health Support and Community Partnerships Program,
Notice of Intent to Award Funds and Next Steps.

Dear Mayor Gradisar:

The Department of Local Affairs is in receipt of your application for Peace Officers Behavioral Health Support funds. After thorough review, I am pleased to offer a grant award in the amount of \$99,464.00 for the purpose of providing behavioral health services to peace officers and/or co-responder community response services based on your grant application.

Your Grant Agreement will be unilaterally signed by the State and issued as a "Grant Award Letter including Terms and Conditions". Grantees of these funds will not need to sign and return the document packet to DOLA. Payment requests will be made using DOLA's online portal.

Next Steps:

- Please complete and return the W-9 (required) and the EFT form (optional) included in this packet to the addresses indicated on the forms as soon as possible.
- You will receive the fully executed Grant Award Letter including Terms and Conditions packet via email only. This document packet does not need to be signed or returned by you. Also included with the packet will be instructions on how to submit payment requests using DOLA's online portal.

Grant funds awarded will come from state tax proceeds that may cause you to go to an election to receive and spend these funds. Please confer with your appropriate budget and legal staff to determine if such an election is necessary.

Thank you for your interest in the Peace Office Behavioral Health Support Program. Please contact Ella Bowman at (303) 864-7896 if you have any questions.

Sincerely,

Rick M. Garcia, DOLA Executive Director

Cc: Luann Martinez, Grant Administrator
Ella Bowman, Program Manager
Tara Marshall, DOLA Regional Manager

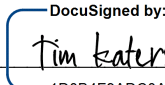


POMH
CTGG1 NLAA 202300003549

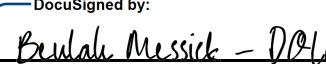
STATE OF COLORADO INTERGOVERNMENTAL GRANT AGREEMENT SUMMARY OF TERMS AND CONDITIONS

State Agency Department of Local Affairs (DOLA)	DLG Portal Number POMH-23-534	CMS Number 181394
Grantee City of Pueblo	Grant Award Amount \$99,464.00	
Project Number and Name POMH 23-534 Pueblo Peace Officer Behavioral Health Support and Community Partnerships Program	Performance Start Date The later of the Effective Date or March 9, 2023	Grant Expiration Date June 30, 2025
Project Description The Project consists of providing Grant Funds to Pueblo for provision of behavioral health counseling services to peace officers, their immediate families and first responders.	Program Name Peace Officer Behavioral Health Support and Community Partnerships Grant Program (POMH)	
	Funding Source STATE FUNDS	
	Catalog of Federal Domestic Assistance (CFDA) Number N/A	
DOLA POMH Program Manager <u>Ella Bowman, (303) 864-7896</u> Ella.bowman@state.co.us	Funding Account Codes 22-005 PX2335	
VCUST# 14170	Address Code AD001 EFT	

THE SIGNATORIES LISTED BELOW AUTHORIZE THIS GRANT

DEPARTMENT OF LOCAL AFFAIRS PROGRAM REVIEWER DocuSigned by:  1D0B4F9ADC0A49C... By: Tim Katers, Financial Assistance Manager Date: 3/10/2023 10:22 AM MST	STATE OF COLORADO Jared S. Polis, Governor DEPARTMENT OF LOCAL AFFAIRS Rick M. Garcia, Executive Director DocuSigned by:  8139CF536BC34AC... By: Rick M. Garcia, Executive Director Date: 3/10/2023 10:38 AM MST
---	--

In accordance with §24-30-202 C.R.S., this Grant is not valid until signed and dated below by the State Controller or an authorized delegate (the “Effective Date”).

<u>STATE CONTROLLER</u> <u>Robert Jaros, CPA, MBA, JD</u> DocuSigned by:  090ACD88A721474... By: Beulah Messick, Controller Delegate Department of Local Affairs Effective Date: 3/10/2023 3:23 PM MST
--

TERMS AND CONDITIONS

1. GRANT

As of the Performance Start Date, the State Agency shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement (the “State”) hereby obligates and awards to Grantee shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement (the “Grantee”) an award of Grant Funds in the amount shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement. By accepting the Grant Funds provided under this Intergovernmental Grant Agreement, Grantee agrees to comply with the terms and conditions of this Intergovernmental Grant Agreement and requirements and provisions of all Exhibits to this Intergovernmental Grant Agreement.

2. TERM

A. Initial Grant Term and Extension

The Parties’ respective performances under this Intergovernmental Grant Agreement shall commence on the Performance Start Date and shall terminate on the Grant Expiration Date unless sooner terminated or further extended in accordance with the terms of this Intergovernmental Grant Agreement. Upon request of Grantee, the State may, in its sole discretion, extend the term of this Intergovernmental Grant Agreement by providing Grantee with an updated Intergovernmental Grant Agreement or an executed Option Letter showing the new Grant Expiration Date.

B. Early Termination in the Public Interest

The State is entering into this Intergovernmental Grant Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Intergovernmental Grant Agreement ceases to further the public interest of the State or if State, Federal or other funds used for this Intergovernmental Grant Agreement are not appropriated, or otherwise become unavailable to fund this Intergovernmental Grant Agreement, the State, in its discretion, may terminate this Intergovernmental Grant Agreement in whole or in part by providing written notice to Grantee. If the State terminates this Intergovernmental Grant Agreement in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Intergovernmental Grant Agreement that corresponds to the percentage of Work satisfactorily completed, as determined by the State, less payments previously made. Additionally, the State, in its discretion, may reimburse Grantee for a portion of actual, out-of-pocket expenses not otherwise reimbursed under this Intergovernmental Grant Agreement that are incurred by Grantee and are directly attributable to the uncompleted portion of Grantee’s obligations, provided that the sum of any and all reimbursements shall not exceed the maximum amount payable to Grantee hereunder. This subsection shall not apply to a termination of this Intergovernmental Grant Agreement by the State for breach by Grantee.

C. *Reserved.*

3. AUTHORITY

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

A. *Reserved.*

POMH 23-534 Pueblo Peace Officer Behavioral Health Support and Community Partnerships Program

B. State Authority

Authority to enter into this Grant exists in C.R.S. 24-32-106 and 29-3.5-101 and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies. This Intergovernmental Grant Agreement is funded, in whole or in part, with State funds.

4. DEFINITIONS

The following terms shall be construed and interpreted as follows:

A. *Reserved.*

B. *Reserved.*

C. “**CORA**” means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.

D. “**Exhibits**” means the following exhibits attached to this Intergovernmental Grant Agreement:

i. Exhibit B, Scope of Project

ii. Exhibit G, Form of Option Letter

E. “**Extension Term**” means the period of time by which the Grant Expiration Date is extended by the State through delivery of an updated Intergovernmental Grant Agreement, an amendment, or an Option Letter.

F. *Reserved.*

G. *Reserved.*

H. “**Goods**” means any movable material acquired, produced, or delivered by Grantee as set forth in this Intergovernmental Grant Agreement and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.

I. “**Intergovernmental Grant Agreement**” or “**Grant**” means this letter which offers Grant Funds to Grantee, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future updates thereto.

J. “**Grant Expiration Date**” means the Grant Expiration Date shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement. Work performed after the Grant Expiration Date is not eligible for reimbursement from Grant Funds.

K. “**Grant Funds**” or “**Grant Award Amount**” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Intergovernmental Grant Agreement.

L. “**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.

M. “**Initial Term**” means the time period between the Performance Start Date and the initial Grant Expiration Date.

N. *Reserved.*

O. “**Other Funds**” means all funds necessary to complete the Project, excluding Grant Funds. Grantee is solely responsible for securing all Other Funds.

POMH 23-534 Pueblo Peace Officer Behavioral Health Support and Community Partnerships Program

- P. **“Party”** means the State or Grantee, and **“Parties”** means both the State and Grantee.
- Q. **“Performance Start Date”** means the later of the Performance Start Date or the Execution Date shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement.
- R. *Reserved.*
- S. **“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. and 24-73-101, C.R.S. “PII” shall also mean “personal identifying information” as set forth at § 24-74-102, et. seq., C.R.S.
- T. **“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.
- U. **“Project”** means the overall project described in **Exhibit B**, which includes the Work.
- V. **“Project Budget”** means the amounts detailed in **§6.2** of **Exhibit B**.
- W. *Reserved.*
- X. *Reserved.*
- Y. **“Services”** means the services performed by Grantee as set forth in this Intergovernmental Grant Agreement, and shall include any services rendered by Grantee in connection with the Goods.
- Z. **“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 State personnel records not subject to disclosure under CORA.
- AA. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a) C.R.S.
- BB. **“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.
- CC. **“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.
- DD. *Reserved.*
- EE. **“Subcontractor”** means third-parties, if any, engaged by Grantee to aid in performance of the Work. “Subcontractor” also includes sub-grantees.

POMH 23-534 Pueblo Peace Officer Behavioral Health Support and Community Partnerships Program

FF. *Reserved.*

GG. *Reserved.*

HH. *Reserved.*

II. “**Work**” means the delivery of the Goods and performance of the Services described in this Intergovernmental Grant Agreement.

JJ. “**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 Performance Start Date that is used, without modification, in the performance of the Work.

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

5. PURPOSE

The purpose of the Peace Officer Mental Health Support Grant Program is to provide grants to local law enforcement agencies for the purpose of engaging mental health professionals who can provide mental health support services to peace officers. The purpose of this Grant is described in **Exhibit B**.

6. SCOPE OF PROJECT

Grantee shall complete the Work as described in this Intergovernmental Grant Agreement and in accordance with the provisions of **Exhibit B**. The State shall have no liability to compensate or reimburse Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Intergovernmental Grant Agreement.

7. PAYMENTS TO GRANTEE

A. Maximum Amount

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Grant that exceeds the Grant Award Amount shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement.

- i.** The State may increase or decrease the Grant Award Amount by providing Grantee with an updated Intergovernmental Grant Agreement or an executed Option Letter showing the new Grant Award Amount.
- ii.** The State shall not be liable to pay or reimburse Grantee for any Work performed or expense incurred before the Performance Start Date or after the Grant Expiration Date.
- iii.** 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.

B. Erroneous Payments

The State may recover, at the State’s discretion, payments made to Grantee in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended

POMH 23-534 Pueblo Peace Officer Behavioral Health Support and Community Partnerships Program

or excess funds received by Grantee. The State may recover such payments by deduction from subsequent payments under this Intergovernmental Grant Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Grantee, or by any other appropriate method for collecting debts owed to the State.

C. Matching Funds.

Grantee shall provide the Other Funds amount shown on the Project Budget in **Exhibit B** (the “Local Match Amount”). Grantee shall appropriate and allocate all Local Match Amounts to the purpose of this Intergovernmental Grant Agreement each fiscal year prior to accepting any Grant Funds for that fiscal year. Grantee does not by accepting this Intergovernmental Grant Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Intergovernmental Grant Agreement is not intended to create a multiple-fiscal year debt of Grantee. Grantee shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee’s laws or policies.

D. Reimbursement of Grantee Costs

The State shall reimburse Grantee’s allowable costs, not exceeding the maximum total amount described in this Intergovernmental Grant Agreement for all allowable costs described in this Intergovernmental Grant Agreement and shown in the Project Budget in **Exhibit B**.

- i. Upon request of the Grantee, the State may, without changing the maximum total amount of Grant Funds, adjust or otherwise reallocate Grant Funds among or between each line of the Project Budget by providing Grantee with an executed Option Letter or formal amendment.

E. Close-Out and De-obligation of Grant Funds

Grantee shall close out this Grant no later than 90 days after the Grant Expiration Date. To complete close out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Intergovernmental Grant Agreement and Grantee’s final reimbursement request or invoice. Any Grant Funds remaining after submission and payment of Grantee’s final reimbursement request are subject to de-obligation by the State.

8. REPORTING – NOTIFICATION

A. Performance and Final Status

Grantee shall submit all financial, performance and other reports to the State no later than the end of the close out period described in **§7.E**.

B. Violations Reporting

Grantee shall disclose, in a timely manner, in writing to the State, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting this Award.

9. GRANTEE RECORDS

A. Maintenance and Inspection

Grantee shall make, keep, and maintain, all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to this Grant for a period of three years following the completion of the close out of this Grant. Grantee shall permit the State to audit, inspect, examine, excerpt, copy and transcribe

POMH 23-534 Pueblo Peace Officer Behavioral Health Support and Community Partnerships Program

all such records during normal business hours at Grantee's office or place of business, unless the State determines that an audit or inspection is required without notice at a different time to protect the interests of the State.

B. Monitoring

The State will monitor Grantee's performance of its obligations under this Intergovernmental Grant Agreement using procedures as determined by the State. The State shall monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work.

C. Audits

Grantee shall comply with all State and federal audit requirements.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Grantee 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 Grantee for the sole and exclusive benefit of the State, unless those State Records are otherwise publically available at the time of disclosure or are subject to disclosure by Grantee under CORA. Grantee shall not, without prior written approval of the State, use for Grantee'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 Intergovernmental Grant Agreement. Grantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security (<http://oit.state.co.us/ois>) and all applicable laws, rules, policies, publications, and guidelines. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Grantee 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 Intergovernmental Grant Agreement. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Grant, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure restrictions to the State upon request.

C. Use, Security, and Retention

Grantee 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. Grantee shall provide the State with access, subject to Grantee'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 Grant, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State

POMH 23-534 Pueblo Peace Officer Behavioral Health Support and Community Partnerships Program

Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Grantee 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. After an Incident, Grantee 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.

11. CONFLICTS OF INTEREST

Grantee 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 Grantee under this Grant. Grantee acknowledges that, with respect to this Grant, even the appearance of a conflict of interest shall be harmful to the State's interests and absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations under this Grant. If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration.

12. INSURANCE

Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"). Grantee shall ensure that any Subcontractors maintain all insurance customary for the completion of the Work done by that Subcontractor and as required by the State or the GIA.

13. REMEDIES

In addition to any remedies available under any Exhibit to this Intergovernmental Grant Agreement, if Grantee fails to comply with any term or condition of this Grant, the State may terminate some or all of this Grant and require Grantee to repay any or all Grant Funds to the State in the State's sole discretion. The State may also terminate this Intergovernmental Grant Agreement at any time if the State has determined, in its sole discretion, that Grantee has ceased performing the Work without intent to resume performance, prior to the completion of the Work.

14. DISPUTE RESOLUTION

Except as herein specifically provided otherwise, disputes concerning the performance of this Grant that cannot be resolved by the designated Party representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager or official designated by Grantee for resolution.

15. NOTICES AND REPRESENTATIVES

Each Party shall identify an individual to be the principal representative of the designating Party and shall provide this information to the other Party. All notices required or permitted to be given under this Intergovernmental Grant Agreement shall be in writing, and shall be delivered either in hard copy or by email to the representative of the other Party. Either Party may change its principal

POMH 23-534 Pueblo Peace Officer Behavioral Health Support and Community Partnerships Program

representative or principal representative contact information by notice submitted in accordance with this §15.

16. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

Grantee 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 Grantee or any Subcontractors or Subgrantees and paid for with Grant Funds provided by the State pursuant to this Grant.

17. 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. No term or condition of this Intergovernmental Grant Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, or protections of any of these provisions.

18. GENERAL PROVISIONS

A. Assignment

Grantee's rights and obligations under this Grant 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 Grantee's rights and obligations approved by the State shall be subject to the provisions of this Intergovernmental Grant Agreement.

B. Captions and References

The captions and headings in this Intergovernmental Grant Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Intergovernmental Grant 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.

C. Entire Understanding

This Intergovernmental Grant 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 Intergovernmental Grant Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

D. Modification

The State may modify the terms and conditions of this Grant by issuance of an updated Intergovernmental Grant Agreement, which shall be effective if Grantee accepts Grant Funds following receipt of the updated letter. The Parties may also agree to modification of the terms and conditions of the Grant in either an option letter or a formal amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules.

POMH 23-534 Pueblo Peace Officer Behavioral Health Support and Community Partnerships Program

E. Statutes, Regulations, Fiscal Rules, and Other Authority

Any reference in this Intergovernmental Grant 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 Performance Start Date. Grantee shall strictly 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. 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 Agreement by reference.

G. Order of Precedence

In the event of a conflict or inconsistency between this Intergovernmental Grant 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. Any executed Option Letter
- ii. The provisions of this Intergovernmental Grant Agreement.
- iii. The provisions of any exhibits to this Intergovernmental Grant Agreement.

H. Severability

The invalidity or unenforceability of any provision of this Intergovernmental Grant Agreement shall not affect the validity or enforceability of any other provision of this Intergovernmental Grant Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under the Grant in accordance with the intent of the Grant.

I. Survival of Certain Intergovernmental Grant Agreement Terms

Any provision of this Intergovernmental Grant Agreement that imposes an obligation on a Party after termination or expiration of the Grant shall survive the termination or expiration of the Grant and shall be enforceable by the other Party.

J. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described above, this Intergovernmental Grant 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 Grant are incidental to the Grant, and do not create any rights for such third parties.

K. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Intergovernmental Grant Agreement, whether explicit or by lack of enforcement, shall not

POMH 23-534 Pueblo Peace Officer Behavioral Health Support and Community Partnerships Program

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.

L. Accessibility

- i.** Grantee shall comply with and adhere to Section 508 of the U.S. Rehabilitation Act of 1973, as amended.
- ii.** Grantee 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 OIT pursuant to Section §24-85-103 (2.5), C.R.S. Grantee 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.
- iii.** The State may require Grantee's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Grantee'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.

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK



**Background Paper for Proposed
Action Item**

COUNCIL MEETING DATE: April 10, 2023

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: AN ORDINANCE APPROVING AND ADOPTING THE CITY OF PUEBLO'S 2023-2024 ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND THE HOME INVESTMENT PARTNERSHIP ACT GRANT (HOME), AUTHORIZING THE MAYOR OF THE CITY OF PUEBLO TO SUBMIT THE APPLICATION TOGETHER WITH ALL REQUIRED AND NECESSARY CERTIFICATIONS, ASSURANCES, AND DOCUMENTATION TO THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND APPROPRIATING AND BUDGETING CDBG AND HOME FUNDS THEREFORE

SUMMARY:

This Ordinance approves the 2023-2024 Action Plan as presented. The Action Plan contains the funding recommendations made by the Citizens' Advisory Committee (CAC) and Staff.

PREVIOUS COUNCIL ACTION:

The City Council has not taken any previous action on this matter.

BACKGROUND:

As an entitlement city, the City of Pueblo is required by the U.S. Department of Housing and Urban Development (HUD) to complete an Annual Action Plan for each of the years of the Consolidated Plan. This Action Plan and the accompanying documentation serve as the City's application to HUD for the 2023-2024 Community Development Block Grant (CDBG) and HOME Investment Partnership Act Grant (HOME). This is the fourth Action Plan under the 2020-2024 Five-Year Consolidated Plan.

A public meeting was held to receive citizen input and to hear applicant presentations on July 19, 2022. HUD CPD Notice 23-01 requested the annual

action plan not be submitted prior to the publication of the grantees FY23 allocation on February 27, 2023. The notice of the availability of the 2023 Annual Action Plan was published on October 4, 2022 and made available to the public for review on October 5, 2022, formally opening the public comment period for thirty-days. Public meetings were held on October 12, 2022 and November 3, 2022. Copies were available at the City Clerk's Office, the Rawlings Library, the Department of Housing and Citizen Services (Department), and the City's website.

FINANCIAL IMPLICATIONS:

The City anticipates receiving \$1,430,540.00 in CDBG funding and \$1,025,859.00 in HOME Consortium grant funding, with an additional \$11,749.85 in homebuyer recapture for housing and community development projects in 2023. The HOME Consortium grant is shared with Pueblo County on an 87%/13% City/County basis. The HOME grant requires a 25% match. The City's portion this year is \$208,750.15.

BOARD/COMMISSION RECOMMENDATION:

The Citizens Advisory Committee (CAC) has recommended that the City Council approve the activities outlined in the 2023-2024 Action Plan and presented its recommendations to Council during Work Session on August 22, 2022

STAKEHOLDER PROCESS:

The following stakeholder processes were undertaken by the Department. Starting May 1, 2022 through May 31, 2022, applications for grant funding were made available to the community. Public hearings were held before the CAC on July 19, 2022. The public hearings were open for public comments, and for funding applicants to present their requests to the CAC. The CAC deliberations were held on August 10, 2021. This was an open meeting, but opportunity for public comment is not provided. The 30-day comment period began October 5, 2022, with the publication of a public notice in *The Pueblo Chieftain*.

ALTERNATIVES:

The City Council can choose to not apply for the CDBG and HOME grants, in which case a number of community services will need to find alternative funding.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 2023 Final Attachment A
2. HUD_424B-V1.0 Certifications and Assurances
3. Certifications
4. 2023 SF-424 HOME
5. SF424D-V1.1 - HOME
6. 2023 SF-424 CDBG
7. SF424D-V1.1 - CDBG

ORDINANCE NO.

AN ORDINANCE APPROVING AND ADOPTING THE CITY OF PUEBLO'S 2023-2024 ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND THE HOME INVESTMENT PARTNERSHIP ACT GRANT (HOME), AUTHORIZING THE MAYOR OF THE CITY OF PUEBLO TO SUBMIT THE APPLICATION TOGETHER WITH ALL REQUIRED AND NECESSARY CERTIFICATIONS, ASSURANCES, AND DOCUMENTATION TO THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND APPROPRIATING AND BUDGETING CDBG AND HOME FUNDS THEREFORE

WHEREAS, the City of Pueblo is designated as an entitlement city under the Housing and Community Development Act of 1974, and will receive Community Development Block Grant (CDBG) and HOME Investment Partnership Act Grants (HOME) for fiscal year 2023; and

WHEREAS, the City of Pueblo conducted a citizen participation process that included two public hearings within the City of Pueblo in addition to a third public hearing before City Council to obtain the views of citizens, non-profit and neighborhood groups on the City's housing and community needs; NOW, THEREFORE,

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

SECTION 1.

The City Council hereby finds and determines that the City of Pueblo's 2023-2024 Action Plan listing projects and programs for funding from CDBG and HOME federal funds has been developed to give maximum feasible priority to activities which will benefit low- to moderate-income families and/or aid in the prevention or elimination of slum and blight, as required by HUD, and is hereby approved, adopted, and incorporated herein.

SECTION 2.

The Mayor is hereby authorized to submit, in the name of the City of Pueblo, the applications (SF-424/SF-424D) and the 2023-2024 Action Plan, together with all required and necessary certifications, assurances, and documentation to the U.S. Department of Housing and Urban Development for \$1,430,540.00 in 2023 CDBG funds and \$1,025,859.00 in 2023 HOME funds, along with \$11,749.85 in homebuyer funds recaptured from prior years.

SECTION 3.

CDBG funds in the amount of \$1,430,540.00 and HOME funds in the amount of \$1,025,859.00, and HOME homebuyer recaptured funds in the amount of \$11,749.85, the 2023 allocation, are hereby budgeted and appropriated for the projects and in the amounts set forth in the 2023-2024 Action Plan. A list of the recommended projects is herein included as Attachment A.

SECTION 4.

The HOME Program requires local matching funds. The City's portion of matching funds for the 2023-2024 year is \$208,750.15. During the annual budget process, \$332,150.00 was budgeted and appropriated for the HOME match to meet the 2023-2024 requirement and to balance out with additional program income received from FY2021. Therefore, \$332,150.00

is available in Project No. HO2360 to meet the required matching funds.

SECTION 5.

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 6.

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 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



2023 Annual Action Plan

Attachment A

Community Development Block Grant Program Funds			
Project No.	Project Name	Project Agency	Amount
Public Services			
CD2301	Administration	DHCS	\$ 285,000.00
CD2302	Homeless Prevention	Posada	\$ 50,000.00
CD2303	Homeless Supportive Services	Posada	\$ 75,000.00
CD2304	Homeless Youth Services	Posada	\$ 50,000.00
CD2305	Home Stability Program	Catholic Charities	\$ 25,000.00
CD2306	Senior Transportation	SRDA	\$ 13,750.00
Public Facilities/Neighborhood Improvements			
CD2307	Orman Sidewalks - 1600 Block	Richard Coleman	\$ 200,000.00
CD2308	Van Buren Sidewalks - 200 Block	Kimberly Pease	\$ 142,290.00
CD2309	ADA Curb Ramps - Belmont	Public Works	\$ 200,000.00
CD2310	ADA Curb Ramps - State Fair	Public Works	\$ 200,000.00
Housing Activities			
CD2311	ERESP	Pueblo County	\$ 40,000.00
CD2312	Minor Repair Program	DHCS	\$ 74,500.00
CD2313	Rehabilitation	DHCS	\$ 75,000.00
			\$ 1,430,540.00
HOME Partnership Investment Act Program Funds			
Project No.	Project Name	Project Agency	Amount
HO2310	City Administration	City of Pueblo	\$ 89,249.00
HO2320	County Administration	Pueblo County	\$ 13,336.00
HO2330	County Programs	Pueblo County	\$ 100,021.00
HO2340	Community Housing Development Organization	TBD	\$ 153,879.00
HO2350	City Programs	City of Pueblo	\$ 669,374.00
HO2360	City Match	City of Pueblo	\$ 332,150.00
HO23HP	Homebuyer Recaptured Funds	City of Pueblo	\$ 11,749.85
			\$ 1,369,758.85

Please wait...

If this message is not eventually replaced by the proper contents of the document, your PDF viewer may not be able to display this type of document.

You can upgrade to the latest version of Adobe Reader for Windows®, Mac, or Linux® by visiting http://www.adobe.com/go/reader_download.

For more assistance with Adobe Reader visit <http://www.adobe.com/go/acrreader>.

Windows is either a registered trademark or a trademark of Microsoft Corporation in the United States and/or other countries. Mac is a trademark of Apple Inc., registered in the United States and other countries. Linux is the registered trademark of Linus Torvalds in the U.S. and other countries.

CERTIFICATIONS

In accordance with the applicable statutes and the regulations governing the consolidated plan regulations, the jurisdiction certifies that:

Affirmatively Further Fair Housing --The jurisdiction will affirmatively further fair housing.

Uniform Relocation Act and Anti-displacement and Relocation Plan -- It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4601-4655) and implementing regulations at 49 CFR Part 24. It has in effect and is following a residential anti-displacement and relocation assistance plan required under 24 CFR Part 42 in connection with any activity assisted with funding under the Community Development Block Grant or HOME programs.

Anti-Lobbying --To the best of the jurisdiction's knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, 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 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;
2. 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 contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
3. It will require that the language of paragraph 1 and 2 of this anti-lobbying certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

Authority of Jurisdiction --The consolidated plan is authorized under State and local law (as applicable) and the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations.

Consistency with plan --The housing activities to be undertaken with Community Development Block Grant, HOME, Emergency Solutions Grant, and Housing Opportunities for Persons With AIDS funds are consistent with the strategic plan in the jurisdiction's consolidated plan.

Section 3 -- It will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR Part 75.

Signature of Authorized Official

Date

Title

Specific Community Development Block Grant Certifications

The Entitlement Community certifies that:

Citizen Participation -- It is in full compliance and following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.105.

Community Development Plan -- Its consolidated plan identifies community development and housing needs and specifies both short-term and long-term community development objectives that have been developed in accordance with the primary objective of the CDBG program (i.e., the development of viable urban communities, by providing decent housing and expanding economic opportunities, primarily for persons of low and moderate income) and requirements of 24 CFR Parts 91 and 570.

Following a Plan -- It is following a current consolidated plan that has been approved by HUD.

Use of Funds -- It has complied with the following criteria:

1. Maximum Feasible Priority. With respect to activities expected to be assisted with CDBG funds, it has developed its Action Plan so as to give maximum feasible priority to activities which benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight. The Action Plan may also include CDBG-assisted activities which the grantee certifies are designed to meet other community development needs having particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available (see Optional CDBG Certification).

2. Overall Benefit. The aggregate use of CDBG funds, including Section 108 guaranteed loans, during program year(s) 2022 [a period specified by the grantee of one, two, or three specific consecutive program years], shall principally benefit persons of low and moderate income in a manner that ensures that at least 70 percent of the amount is expended for activities that benefit such persons during the designated period.

3. Special Assessments. It will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements.

However, if CDBG funds are used to pay the proportion of a fee or assessment that relates to the capital costs of public improvements (assisted in part with CDBG funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds.

In addition, in the case of properties owned and occupied by moderate-income (not low-income) families, an assessment or charge may be made against the property for public improvements financed by a source other than CDBG funds if the jurisdiction certifies that it lacks CDBG funds to cover the assessment.

Excessive Force -- It has adopted and is enforcing:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

Compliance with Anti-discrimination laws -- The grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the Fair Housing Act (42 U.S.C. 3601-3619) and implementing regulations.

Lead-Based Paint -- Its activities concerning lead-based paint will comply with the requirements of 24 CFR Part 35, Subparts A, B, J, K and R.

Compliance with Laws -- It will comply with applicable laws.

Signature of Authorized Official

Date

Title

OPTIONAL Community Development Block Grant Certification

Submit the following certification only when one or more of the activities in the action plan are designed to meet other community development needs having particular urgency as specified in 24 CFR 570.208(c):

The grantee hereby certifies that the Annual Plan includes one or more specifically identified CDBG-assisted activities which are designed to meet other community development needs having particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs.

Signature of Authorized Official

Date

Title

Specific HOME Certifications

The HOME participating jurisdiction certifies that:

Tenant Based Rental Assistance -- If it plans to provide tenant-based rental assistance, the tenant-based rental assistance is an essential element of its consolidated plan.

Eligible Activities and Costs -- It is using and will use HOME funds for eligible activities and costs, as described in 24 CFR §§92.205 through 92.209 and that it is not using and will not use HOME funds for prohibited activities, as described in §92.214.

Subsidy layering -- Before committing any funds to a project, it will evaluate the project in accordance with the guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other Federal assistance than is necessary to provide affordable housing;

Signature of Authorized Official

Date

Title

Please wait...

If this message is not eventually replaced by the proper contents of the document, your PDF viewer may not be able to display this type of document.

You can upgrade to the latest version of Adobe Reader for Windows®, Mac, or Linux® by visiting http://www.adobe.com/go/reader_download.

For more assistance with Adobe Reader visit <http://www.adobe.com/go/acrreader>.

Windows is either a registered trademark or a trademark of Microsoft Corporation in the United States and/or other countries. Mac is a trademark of Apple Inc., registered in the United States and other countries. Linux is the registered trademark of Linus Torvalds in the U.S. and other countries.

Please wait...

If this message is not eventually replaced by the proper contents of the document, your PDF viewer may not be able to display this type of document.

You can upgrade to the latest version of Adobe Reader for Windows®, Mac, or Linux® by visiting http://www.adobe.com/go/reader_download.

For more assistance with Adobe Reader visit <http://www.adobe.com/go/acrreader>.

Windows is either a registered trademark or a trademark of Microsoft Corporation in the United States and/or other countries. Mac is a trademark of Apple Inc., registered in the United States and other countries. Linux is the registered trademark of Linus Torvalds in the U.S. and other countries.

Please wait...

If this message is not eventually replaced by the proper contents of the document, your PDF viewer may not be able to display this type of document.

You can upgrade to the latest version of Adobe Reader for Windows®, Mac, or Linux® by visiting http://www.adobe.com/go/reader_download.

For more assistance with Adobe Reader visit <http://www.adobe.com/go/acrreader>.

Windows is either a registered trademark or a trademark of Microsoft Corporation in the United States and/or other countries. Mac is a trademark of Apple Inc., registered in the United States and other countries. Linux is the registered trademark of Linus Torvalds in the U.S. and other countries.

Please wait...

If this message is not eventually replaced by the proper contents of the document, your PDF viewer may not be able to display this type of document.

You can upgrade to the latest version of Adobe Reader for Windows®, Mac, or Linux® by visiting http://www.adobe.com/go/reader_download.

For more assistance with Adobe Reader visit <http://www.adobe.com/go/acrreader>.

Windows is either a registered trademark or a trademark of Microsoft Corporation in the United States and/or other countries. Mac is a trademark of Apple Inc., registered in the United States and other countries. Linux is the registered trademark of Linus Torvalds in the U.S. and other countries.



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 10, 2023

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 AMENDING SECTION 12-5-5 OF THE PUEBLO MUNICIPAL CODE RELATING TO STREET VACATION APPLICATION FEES AND REAPPLICATIONS

SUMMARY:

This Ordinance will amend Section 12-5-5 of the Pueblo Municipal Code to authorize the establishment of a fee schedule for street vacation applications by Resolution of the City Council.

PREVIOUS COUNCIL ACTION:

Resolution 14808, passed on February 14, 2022, established a fee schedule for applications for various land use actions including street vacation applications.

BACKGROUND:

This Ordinance will correct a discrepancy in the required application fee costs between Section 12-5-5 of the Code and Resolution No. 14808, which established an application fee schedule for various land use actions (including street vacation applications). This change aligns Section 12-5-5 of the Code with other sections by creating language authorizing the collection of fees and directing those fees to be set by separate resolutions of the City Council. It also simplifies the fee payment structure from a two-step payment process to a one-time payment process when the application is submitted.

The City's street vacation regulations codified in Chapter 5 of Title XII of the Pueblo Municipal Code outline procedures for the processing of street vacation applications. Section 12-5-5 of the Code establishes a fee of \$150.00 for street vacation actions - \$75.00 before the application is processed and voted upon by the Planning and Zoning Commission and another \$75.00 before the application is presented to the City Council. The proposed amendment would simplify the fee structure and authorize fees for street vacation actions to be set by a Resolution of the City Council. A proposed fee schedule

has been established under Resolution 14808 and the fees for street vacation applications specified therein would take effect immediately upon final approval of this Ordinance.

FINANCIAL IMPLICATIONS:

Revenues generated from street vacation application fees would be deposited into the City's General Fund.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

If the City Council does not approve this Ordinance, the current language in Section 12-5-5 will remain in effect.

RECOMMENDATION:

Approve the proposed Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 12-5-5 OF THE PUEBLO MUNICIPAL CODE RELATING TO STREET VACATION APPLICATION FEES AND REAPPLICATIONS

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

SECTION 1.

Section 12-5-5 of the Pueblo Municipal Code is hereby amended to read as follows (brackets indicate matter being deleted, underscoring indicates new matter being added):

Sec. 12-5-5. - [Costs; Reapplying] Application fee; Reapplication.

(a) [Before any action shall be taken as provided by this Chapter by the Planning and Zoning Commission, the applicant proposing the vacation shall deposit with the Finance Department an application fee of seventy-five dollars (\$75.00). Under no conditions shall such sums or any portion thereof be refunded for failure of such vacation to be approved by the Planning and Zoning Commission.] **Before any action shall be taken upon any application filed under this Chapter, the applicant shall deposit with the Finance Department an application fee in an amount as set forth by resolution of the City Council.**

(b) [After the Planning and Zoning Commission has made its recommendations, an ordinance shall be prepared for presentation to the City Council. An additional fee of seventy-five dollars (\$75.00) shall be charged to cover all necessary and reasonable costs incurred by the City in processing such ordinance through the City Council.] **In the event the proposed vacation is denied by the City Council, no new or substantially similar request shall be made for the same within six (6) months after such denial thereof.**

[(c) No deposit of money shall be required when such action is initiated by the Planning and Zoning Commission. In the event the proposed vacation is denied by the City Council, no new or substantially similar request shall be made for the same within six (6) months after such denial thereof.]

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 _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 10, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE APPROVING A PARKING AGREEMENT BETWEEN PUEBLO COUNTY AND THE CITY OF PUEBLO, RELATING TO THE COUNTY'S USE OF PARKING SPACES IN THE CITY'S PARKING LOT LOCATED AT W. 8TH STREET AND COURT STREET AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

SUMMARY:

Attached is an Ordinance approving a parking agreement between Pueblo County and the City of Pueblo, relating to the County's use of parking spaces in the City's parking lot located at West 8th Street and Court Street and authorizing execution thereof by the Mayor.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Pueblo County has requested the use of available parking spaces in the City's surface parking lot located on the southeast corner of the intersection of West 8th Street and Court Street. Sufficient parking spaces are available for use by the County at this time and the City of Pueblo and the County staff have negotiated the terms of a proposed parking agreement.

FINANCIAL IMPLICATIONS:

Pueblo County shall pay \$30.00 per month for each permit issued by the City. The City will invoice the County for all issued permits on a monthly basis. All revenues received shall be deposited into a revenue account of the City Parking Enterprise.

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

Not applicable

ALTERNATIVES:

Denial of this agreement will prevent the City from renting available parking spaces to Pueblo County.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. City-County Parking Agreement (230321)

ORDINANCE NO.

AN ORDINANCE APPROVING A PARKING AGREEMENT BETWEEN PUEBLO COUNTY AND THE CITY OF PUEBLO, RELATING TO THE COUNTY'S USE OF PARKING SPACES IN THE CITY'S PARKING LOT LOCATED AT W. 8TH STREET AND COURT STREET AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

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

SECTION 1.

The Parking Agreement ("Agreement") by and between Pueblo County, a Political Subdivision of the State of Colorado, and the City of Pueblo, a Municipal Corporation, a copy of which is attached hereto and made part hereof by reference, after having been approved as to form by the City Attorney, is hereby approved. 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 2.

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

SECTION 3.

This Ordinance shall become effective immediately upon passage and approval.

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

PARKING AGREEMENT

THIS PARKING AGREEMENT ("Agreement") entered into as of the 22nd day of March, 2023 by and between the City of Pueblo, a Municipal Corporation ("City"), and Pueblo County, a political subdivision of the State of Colorado, ("County"). City and County may each be referred to herein individually as "Party," or collectively as "Parties."

WHEREAS, County represents that it will need up to twenty off-street parking spaces (the "Parking Spaces") for its employees ("County's Employees"), and

WHEREAS, City and County are desirous of entering into an agreement with respect to such Parking Spaces.

NOW, THEREFORE, in consideration of the foregoing and mutual covenants contained herein, City and County agree as follows:

1. Available Parking Spaces. City, subject to the terms and conditions set forth herein, will make available for use by County's Employees, up to twenty (20) Parking Spaces in the City parking lot located on the southeast corner of the intersection of W. 8th Street and Court Street ("Parking Lot").

2. City shall initially provide twenty (20) hang-tag parking permits ("Permits") which shall be prominently and clearly displayed so they are visible at all times from the outside of any parked vehicles while they are located in the Parking Lot. Changes to the number of Permits issued shall be processed as described in Paragraph 4 below.

3. Parking Fees. In consideration of City making available up to 20 Parking Spaces for use by County's Employees, except as otherwise may be provided in paragraph 7(b) below, City will invoice County monthly no later than the fifth workday (excluding City holidays) of each month for all Permits that were issued during the previous month. The parking fee for each Permit issued shall be \$30.00 per month ("Parking Fees"). Any Permits issued for a full or partial month shall be charged the full monthly parking fee on the monthly invoice. Invoices for Parking Fees due shall be payable immediately upon receipt and payment shall be considered past due if City has not received payment on the last day of the month in which the invoice was issued.

4. Change in Number of Permits Issued. If County requests additional Permits, County shall specify the number of additional Permits it requires by notifying City in writing at least fifteen (15) days in advance of the requested change. Upon receipt of such notification, City may, at its sole discretion, make additional Permits available to County consistent with the Parking Fees specified under this Agreement when such additional Parking Spaces are reasonably available. If County desires a reduction in the number of Permits issued, County shall notify the City in writing of the requested change and return any excess Permits. The last day of the month in which the excess Permits are received by City shall be the date used to calculate Parking Fees due in accordance with Paragraph 3 above.

5. Lost Permits. County agrees to promptly report any lost or stolen Permits to City within three (3) business days of discovery of the loss. City shall invalidate the lost or stolen Permit and reissue a new Permit as soon as reasonably practicable.

6. Uses of Parking Spaces.

(a) Parking Spaces shall be used only by County Employees for the parking of motor vehicles in compliance with City's applicable rules and regulations. Motor vehicles shall only be parked within marked spaces. Parking Spaces shall be made available for County's Employees 24 hours per day, 7 days per week, provided that City may obstruct or deny access to or use of the Parking Spaces during emergencies, major City events, and during reasonable periods for maintenance and repairs to the Parking Spaces. County shall not make any repairs, alterations or improvements to or upon the Parking Spaces or parking lot.

(b) Maintenance and Related Obligations of the City. City will maintain the Parking Spaces in conjunction with its maintenance and repair program for City's public parking areas and structures.

7. Assignment. County shall not assign or otherwise transfer this Agreement or any of County's interest herein, reissue Permits to other persons or entities, or sublease the Parking Spaces or any part thereof.

8. Signs. County shall not place, install, affix or use any sign, advertising, or identifying media on or within the Parking Lot.

9. Default by County.

(a) Time is of the essence hereof. If County defaults in the payment of any invoice or fails to perform or observe any of the conditions and covenants on its part to be performed or observed hereunder, and such default or failure shall continue for a period of thirty (30) days after written notice thereof is given by City to County, then and in that event, City, in addition to other remedies available at law or in equity, may invalidate the issued Permits, terminate this Agreement, and forthwith take possession of the Parking Spaces. Failure or delay by City in taking any action in connection with a default or failure of County, or accepting partial or full payment for invoices with knowledge or such default or failure, shall not waive such default or failure, and City shall have the right at any time to take such action as may be lawful or authorized hereunder. All remedies are cumulative.

(b) Default by City. Subject to the limitations set forth in paragraphs 11 and 12 of this Agreement, if City defaults in making available the Parking Spaces as set forth in this Agreement, and such default is not cured within thirty (30) days after written notice of such default is given by County to City, or, if the default cannot be reasonably cured within said 30-day period, and the cure thereof is not commenced within such period and thereafter diligently prosecuted to completion by City, County, as its exclusive remedy may withhold from future payments due the City under this Agreement, the difference between the parking fees invoiced and the Parking Fees due for any Permits that were utilized at any time during the invoice period. County waives any general, consequential, or special damages for City's default under the terms and conditions of this Agreement.

10. Attorney Fees. Exclusive venue for such litigation shall be Pueblo County, Colorado. All such litigation shall be filed in the District Court, County of Pueblo, Colorado, and each party submits to the jurisdiction of such District Court. To the extent allowed by law, each party waives its right to a jury trial.

11. Term and Termination. The Term of this Agreement shall commence on May 1, 2023 ("Commencement Date") and continue for a period of one (1) year from the Commencement Date. The Agreement shall automatically renew for an additional one-year (1-year) period upon the anniversary of the Commencement Date. Either party may terminate this Agreement by providing thirty (30) days written notice to the other party. Upon termination, County agrees to return all issued Permits to City within ten (10) business days.

12. Notices. Any notice required, or permitted, under this Agreement, shall be in writing and shall be effective upon personal delivery, or three (3) days after mailing, if to the City:

City of Pueblo
Attn: Mayor
1 City Hall Place
Pueblo, Colorado, 81003

with a copy to:

City of Pueblo
Attn: Director of Public Works
211 E. D Street
Pueblo, Colorado, 81003

or if to County:

Pueblo County
Attn: 10th Judicial District Attorneys Office
Address: 701 Court Street
Pueblo, Colorado, 81003

or to such other address as either party may specify in writing given to the other party as herein provided.

13. City's Financial Obligations. Any provision of this Agreement which imposes upon City any financial obligation payable after the current fiscal year is expressly contingent upon funds for such financial obligation being budgeted, appropriated, and otherwise made available.

14. Governmental Immunity. Neither City nor County, by entering into this Agreement nor by any provision hereof, waive or intend to waive any rights, immunities, conditions, or protection under the Colorado Governmental Act, C.R.S. 24-10-101, et seq., or otherwise available or provided under any other law to either Party or their respective officers and employees.

15. Miscellaneous.

(a) This Agreement shall be binding upon and inure to the benefit of County and City and, subject to the limitations of Paragraph 7 hereof, their respective successors.

(b) This Agreement shall be governed by and interpreted in accordance with the laws of the State of Colorado without regard to conflict of law principles.

(c) This Agreement expresses the entire understanding of the parties and supersedes any and all prior dealings and commitments with respect to the subject matter of this Agreement and may not be altered, changed, or amended except by an instrument in writing signed by County and City.

(d) If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the other provisions of this Agreement which shall remain in full force and effect.

(e) The article and section headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof.

[The rest of this page has intentionally been left blank.]

IN WITNESS WHEREOF, the parties hereto set their hands and seal the day and year first written above.

CITY OF PUEBLO,
A MUNICIPAL CORPORATION

By _____
Nicholas A. Gradisar, Mayor

ATTEST:

City Clerk

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023

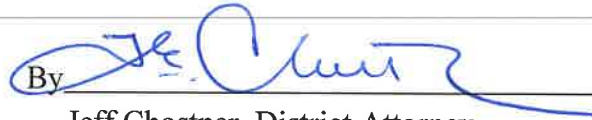
by _____.

Witness my hand and official seal. My commission expires: _____.

[S E A L]

Notary Public

PUEBLO COUNTY

By 
Jeff Chostner, District Attorney

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this 22nd day of March, 2023

by J. E. Chostner

Witness my hand and official seal. My commission expires: May 28, 2025

[SEAL]




Notary Public



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 10, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE APPROVING A PUBLIC ART DONATION AGREEMENT BETWEEN LYLE CLIFT AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, RELATING TO THE DONATION OF ARTWORK FOR PUBLIC ENJOYMENT AS PART OF THE PUEBLO HISTORY AND ARTWALK PROJECT AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

SUMMARY:

Attached is an Ordinance approving a Public Art Donation Agreement between Lyle Clift and the City of Pueblo related to the donation of park benches to be installed along the route of the Pueblo History and Art Walk for public enjoyment.

PREVIOUS COUNCIL ACTION:

On October 26, 2020, City Council passed Resolution No. 14496, adopting the Colorado Smelter Revitalization Plan, which approved a slate of improvement projects in the Bessemer, Bojon Town, and Grove neighborhoods that could be completed as funding became available.

On January 9, 2023, City Council passed Ordinance No. 10369, approving an Intergovernmental Agreement between the City of Pueblo and the Pueblo Department of Public Health and Environment related to the establishment of the Pueblo History and Art Walk and the related project support to be provided by the City's Public Works Department.

On January 23, 2023, City Council passed Ordinance No. 10373, establishing Project No. PL2203 - Colorado Smelter Revitalization Project Support and budgeting and appropriating funds in the amount of \$22,000.00 for the project.

BACKGROUND:

One of the stated goals in the Colorado Smelter Revitalization Plan was the installation

of public artwork within the Bessemer, Bojon Town, and Grove neighborhoods. The Pueblo Department of Public Health and Environment commissioned several artists to create artwork for installation along the Pueblo History and Art Walk route. Lyle Clift is among the artists who has been selected to participate in the creation of his artwork for this project.

FINANCIAL IMPLICATIONS:

Mr. Clift will donate his park benches to the City of Pueblo at no cost and he will be responsible for the installation and maintenance of the artwork for a period of two years while it is on public display. The City will construct the foundation for installing the artwork using funds previously budgeted and appropriated by Pueblo City Council. At the end of the maintenance period, the City may, at its discretion, opt to continue displaying the artwork, relocate the artwork, or dispose of the artwork. In such case, the City will be responsible for all costs associated with the maintenance of the benches.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

This project was vetted within the local community and supported by the Bessemer, BojonTown, and Grove Improvement Network ("BEGIN") Governing Committee.

ALTERNATIVES:

Denial of this agreement will result in the City being unable to accept the donated artwork from Mr. Clift.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Public Art Donation Agreement - Clift (230317)

ORDINANCE NO.

AN ORDINANCE APPROVING A PUBLIC ART DONATION AGREEMENT BETWEEN LYLE CLIFT AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, RELATING TO THE DONATION OF ARTWORK FOR PUBLIC ENJOYMENT AS PART OF THE PUEBLO HISTORY AND ARTWALK PROJECT AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

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

SECTION 1.

The Public Art Donation Agreement ("Agreement") by and between Lyle Clift and the City of Pueblo, a Municipal Corporation, a copy of which is attached hereto and made a part hereof by reference, after having been approved as to form by the Pueblo City Attorney, is hereby approved. The Mayor is hereby authorized to execute said Agreement for and on behalf of the City of Pueblo and the City Clerk's Office is authorized to affix the seal of the City thereto and attest same.

SECTION 2.

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

SECTION 3.

This Ordinance shall become effective immediately upon passage and approval.

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

PUBLIC ART DONATION AGREEMENT

THIS PUBLIC ART DONATION AGREEMENT ("Agreement") is hereby entered into this ____ day of _____, 2023 by and between the City of Pueblo, a Colorado municipal corporation ("City"), and Lyle Clift ("Artist"). City and Artist may be individually referred to herein as "Party" or collectively referred to as "Parties."

WITNESSETH:

WHEREAS, Artist has been commissioned by the Pueblo Department of Public Health and Environment to install park benches with artistic plaques ("Artwork") for public display and enjoyment;

WHEREAS, Artist represents that he is the sole owner of said Artwork and that he has the right to convey the Artwork and all intellectual property rights, including design and copyright, to City;

WHEREAS, Artist desires to convey the Artwork to City and install the Artwork for public display within the City;

WHEREAS, City agrees to accept ownership of the Artwork and have it installed for public display and enjoyment within the City subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the foregoing and all other covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, all Parties agree as follows:

1. The following terms as used in this Agreement shall have the following meanings:

"Effective Date" refers to the date of this agreement and means the date of final signature of any of the Parties to this Agreement, whichever is latest.

"Installation Date" means the date set forth in the Schedule for which the installation of the Artwork shall commence.

"Installation Deadline" means April 26, 2023 unless such date is extended in writing by the Director of Public Works, which extension shall be made at the sole and absolute discretion of said Director.

"Maintenance and Repair Services" means, without limitation, all actions required so that the Artwork is kept and maintained in a good, clean, safe and operable condition consistent and in compliance with all applicable laws, ordinances, and regulations including but not limited to removing dirt, grime, bird droppings, weeds, graffiti, and repairing minor damage to the Artwork caused by weather, Acts of God, vandalism or any other cause, including damage by a motor vehicle.

“Premises” means the designated areas as indicated in Exhibit A, which is attached hereto and incorporated herein.

“Public Art Display” means the Artwork and other installed ancillary improvements which are located upon the Premises and which may be necessary for the safe public enjoyment of and access to the Artwork.

“Schedule” means the schedule for installation of the Artwork as required by this Agreement.

2. Within ten (10) days of the Effective Date of this Agreement, Artist shall provide City with the Schedule. The Schedule shall be subject to review and approval by City. Following approval of the Schedule by City, any subsequent changes must be approved by City before installation may commence. It is expressly acknowledged and agreed that the placement or location of the Artwork upon City property or within a public right-of-way must be approved by the City’s Director of Public Works.
3. Subject to and conditioned upon the approval of the Schedule, City agrees to allow Artist to install the Artwork (or to have the Artwork installed) upon the Premises.
4. Upon installation of the Artwork by Artist and written acceptance of the installed Artwork by City, ownership of the Artwork and all intellectual property rights, including design and copyright, shall be conveyed to and become the property of City. Risk of loss or damage to the Artwork will be borne by Artist until the Artwork is installed and accepted by City. For two (2) years following the Installation Date, Artist agrees to perform Maintenance and Repair Services for the Artwork at his sole expense. For two (2) years following the Installation Date, City agrees to retain ownership of the Artwork, and all rights attached thereto, and except as provided in Paragraph 8 below, City agrees to coordinate with Artist to ensure public access to and enjoyment of the Artwork.
5. If for any reason City refuses to accept the installed Artwork, Artist shall retain ownership of the Artwork and shall be responsible for removing the Artwork from the Premises at his sole expense within forty-five (45) days after notice by City. Artist **shall not** be responsible for removing the concrete slab foundation or any installed landscaping improvements.
6. If Artist fails to install the Artwork prior the Installation Deadline, City’s obligations under this Agreement shall terminate, and Artist shall return the Premises to their original conditions except Artist shall not be responsible for removing the concrete slab foundation or any installed landscaping improvements.
7. Artist agrees to indemnify, defend, save and hold harmless the City, its respective agents, officers, directors, employees and representatives from and against any and all claims, suits, losses, injuries, damages, liabilities and expenses, including, without limitation, reasonable attorneys’ fees and expenses occasioned in connection with, arising or alleged to arise from, wholly or in part, the Maintenance and Repair Services provided by Artist under this Agreement.
8. If Artist is unable or unwilling to provide Maintenance and Repair Services, if Artwork or Public Art Display becomes a nuisance, or if Artwork is damaged and repair or restoration costs

exceed reasonable economic value for the replacement of the Artwork, City may remove and dispose of the Artwork at its sole discretion. If Artwork is removed by City for any of the conditions specified within this Paragraph 8 within the two-year period following the acceptance of the Artwork by City, City shall provide written notice to Artist of its decision.

9. No term or provision of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, benefits, rights, protections, or any other provision of the Colorado Governmental Immunity Act, sections 24-10-101 and 120, C.R.S., as amended, or any other law granting immunity to the City and each of its respective officers and employees.

10. This Agreement sets forth all understandings and agreements between the Parties relating to the subject matter hereof. No modification or amendment to this Agreement shall be valid unless set forth in writing and approved by the Parties. No verbal representation, agreement or understanding by any officer or employee of the City, either before or after execution of this Agreement, shall modify or amend any of the terms and provisions of this Agreement.

11. The provisions of this Agreement are for the benefit of the named Parties only, and no third party shall have any right or remedy hereunder or the right to enforce any provision of this Agreement.

12. This Agreement shall be construed in accordance with and be governed by the laws of the State of Colorado without regard to conflict of law principles.

13. Time is of the essence hereof. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns, provided Artist may not assign this Agreement or any interest herein without the express written consent of City.

14. In no event shall the City, its officers, agents or employees, be liable to Artist for damages, including without limitation, compensatory, punitive, indirect, special or consequential damages, resulting from or arising out of or related to this Agreement or the performance or breach thereof by City, or the failure or delay of City in the performance of any covenant or provision under this Agreement on its part to be performed. In consideration of City entering into this Agreement, Artist hereby waives and discharges City, its officers, agents and employees from all claims for any and all such damages. No breach, default, delay or failure of City under this Agreement shall be or be construed to be a waiver, discharge or release of Artist's obligations under this Agreement.

15. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the other provisions of this Agreement which shall remain in full force and effect.

16. Each Party acknowledges that this Agreement was fully negotiated by the Parties and, therefore, no provision of this Agreement shall be interpreted against any Party because such Party or its legal representative drafted such provision.

17. 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 jurisdiction of such

District Court. To the fullest extent permitted by law, the Parties hereby waive their right to a trial by jury.

18. This Agreement may be executed in one (1) 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.

SIGNATURE PAGE

ATTEST:

CITY OF PUEBLO

By: _____
Marisa Stoller, City Clerk

By: _____
Mayor Nicholas A. Gradisar

Date: _____

Date: _____

[S E A L]

LYLE CLIFT

By: _____
Lyle Clift

Date: 3/17/23

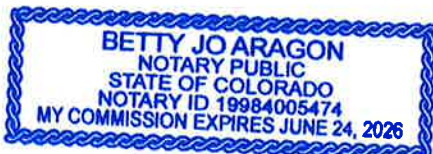
STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this 17th day of March, 2023, by Lyle Clift.

Witness my hand and official seal.

[S E A L]

My commission expires 6/24/24.



Betty Jo Aragon
Notary Public

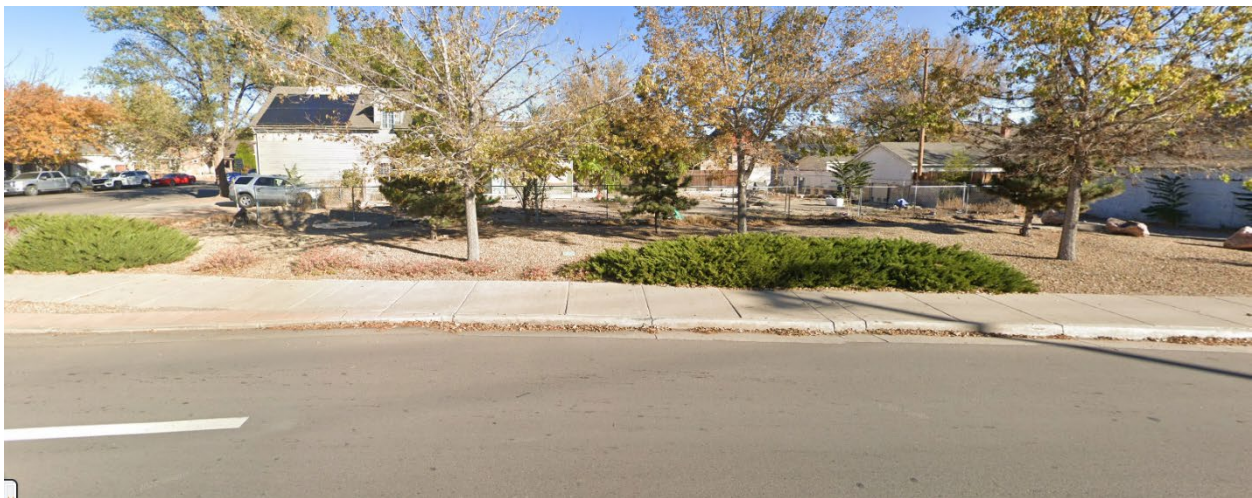
EXHIBIT A – ARTWORK PREMISES AND INSTALLATION DETAILS

Artist shall install a park bench with artistic plaque at the three locations specified below:

Location 1: Moynihan Park



Location 2: Park Facility at S. Santa Fe Ave. and Northern Ave.



Location 3: Intersection of Orman Ave. and Summit Ave.



The installed benches shall be of a style and configuration similar to the one shown in the photo below and shall also include the installation of an artistic plaque integrated into the seat of the bench. Benches shall be anchored to a concrete slab where installed using concrete anchors and hardware.





Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 10, 2023

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 AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, BY AND THROUGH THE COLORADO STATE FAIR AUTHORITY, RELATED TO THE USE OF STATE FACILITIES IN SUPPORT OF A CITY-WIDE CLEANUP EVENT AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT

SUMMARY:

The Ordinance will approve an agreement with the Colorado State Fair Authority authorizing the City of Pueblo to use the State Fair facilities to host a City-Wide Cleanup event on Saturday, May 6, 2023. The Ordinance also authorizes the Mayor to execute the agreement on behalf of the City.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The City of Pueblo plans to host its next City-Wide Cleanup event at the State Fairgrounds on Saturday, May 6, 2023. The Colorado State Fair Authority requires the City of Pueblo to enter into an agreement for the use of their facilities, a copy of which is attached hereto. This Ordinance will approve the agreement and authorize the Mayor to enter into the agreement on behalf of the City.

FINANCIAL IMPLICATIONS:

Not applicable to this Ordinance.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Failure to approve this agreement will prevent the City of Pueblo from using the State Fairgrounds facilities for the cleanup event.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. State Fair Facility Use Permit and Rental Contract

ORDINANCE NO.

AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, BY AND THROUGH THE COLORADO STATE FAIR AUTHORITY, RELATED TO THE USE OF STATE FACILITIES IN SUPPORT OF A CITY-WIDE CLEANUP EVENT AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT

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

SECTION 1.

The Agreement between the City of Pueblo, a Municipal Corporation and the State of Colorado, by and through the Colorado State Fair Authority, 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 Agreement in the name of the City of Pueblo.

SECTION 3.

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 4.

This Ordinance shall become effective on the date of final action by the Mayor and the 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

USE PERMIT & RENTAL CONTRACT

This agreement made and entered into this _____ day of _____, 2023 and between the Colorado State Authority, hereinafter known as the AUTHORITY, and

ORGANIZATION / EVENT NAME: CITY OF PUEBLO / PUEBLO TEAM UP TO CLEAN UP

CONTACT: ANDREW HAYES, DIRECTOR OF PUBLIC WORKS

ADDRESS: 211 E. D STREET

CITY: PUEBLO STATE: CO ZIP: 81003

PHONE: 719-553-2267 (office) / 719-252-4874 (cell) EMAIL: ahayes@pueblo.us

hereinafter known as the USER or CONTRACTOR

WHEREAS, the AUTHORITY agrees to rent the USER, where is, as is, CARNIVAL LOT (known hereinafter as the PREMISES) located on the Colorado State Fairgrounds for the purpose of **COMMUNITY CLEAN UP** (The "Event").

The AUTHORITY grants User the use and occupancy of the Premises for the following RENTAL PERIOD:

Date(s) of Event: SATURDAY, MAY 6, 2023

Time of Event: 8:00 AM TO 3:00 PM

Authorized MOVE IN period: 8:00 AM to 7:00 PM on FRIDAY, MAY 5, 2023

Move-Out Period: BY 5:00 PM MONDAY, MAY 8, 2023

Authorized Occupancy: USER shall have access to the Premises on dates and times listed above only. Authorized occupancy on event day(s) only shall be 07:00 AM to 11:59 PM. The Rental Period shall not be extended for any purpose without the written permission of the AUTHORITY's General Manager. User agrees to pay for any additional period of time in excess of the Rental Period.

Now, therefore, in consideration of rental price as follows:

RENTAL FEE: WAIVED - INCLUDES RENTAL PERIOD ABOVE.

DAMAGE DEPOSIT: WAIVED

ADDITIONAL MOVE-IN/MOVE-OUT FEES: WAIVED

SET-UP/CLEAN-UP FEE: WAIVED - CUSTOMER TO PERFORM SET UP & CLEAN UP.

ADJUSTABLE CHARGES: USER is responsible for setup of tables and chairs unless noted above. Additional tables and chairs may be rented from the AUTHORITY should building capacity allow. Additional equipment fees are \$6.00 per table and \$1.00 per chair. Setup/clean up fees of no less than \$350 per occurrence will be charged if AUTHORITY is required to perform setup and/or cleanup.

SECURITY: USER is required to use State AUTHORITY Security at a rate of up to \$27.00 per guard per hour and up to \$35.50 per uniformed police officer per hour. Number of security guards and/or uniformed police will be determined by security director and AUTHORITY Management.

FOOD & BEVERAGE: Alcoholic Beverages may be **served** during your event; however, the SALE of alcoholic beverages is prohibited. There is no restriction on food service or catering during your event; however, the SALE of food or beverage is prohibited without approval from the AUTHORITY. THE SALE OF ANY FOOD OR BEVERAGE IS STRICTLY PROHIBITED FOR ALL PRIVATE EVENTS.

This signed contract is due back to the AUTHORITY in ten (10) days with first payment to hold building. The USER will notify AUTHORITY fourteen (14) days in advance of event set-up.

The USER agrees to make payments and final settlement as follows: \$0.00 due with signed contract. Remaining rental fees, and all estimated Adjustable Charges: Security, additional table and chair rental fees, set-up/clean up, additional move in/out fees, and any other anticipated charges are due no less than fourteen (14) days prior to event. An additional \$0.75 and 2.25% service fee will be applied to the transaction amount for all credit card payments.

AUTHORITY will charge and USER agrees to pay one and one-half percent (1.5%) per month interest on any unpaid balance after settlement date

TERMS OF USE

The AUTHORITY and USER hereby agree, to wit (USER TO READ & INITIAL EACH TERM)

____1) PAYMENT: All base payments, estimated adjustable charges and refundable damage deposit payments are due fourteen days prior to above stated event. Percentage and additional adjustable charge payments, if applicable, are due and payable immediately following said event. An additional \$0.75 and 2.25% service fee will be applied to the transaction amount for all credit card payments.

____2) AGREEMENT TERMINATION: the AUTHORITY reserves the right to terminate this agreement at any time, with cause upon giving written notice thereof.

____3) DATE RESERVATIONS AND CANCELLATIONS: the AUTHORITY will not guarantee availability of buildings/facilities nor hold date for those who have not submitted a non-refundable down payment. This non-refundable down payment shall be applied to payment due for rental of buildings/facilities if the event is held. Should USER cancel scheduled event at any time, a payment of \$0.00 shall be forfeited as an office charge.

____4) CURFEW: ALL events are to be concluded and buildings/facilities cleared per the Authorized Rental/Occupancy period above. OUTDOOR events are subject to curfew times established at the option and discretion of the AUTHORITY prior to each individual event. Security will be required for all events concluding after 9:00PM.

____5) PARKING: USER understands and agrees that parking on the fairgrounds is shared with other USERS and no exclusive rights are granted. The AUTHORITY reserves the right to restrict or designate parking and/or traffic patterns on the fairgrounds for the safety of patrons. The AUTHORITY reserves the right to charge for parking at their discretion. The AUTHORITY shall retain all parking revenue.

____6) SECURITY: USER agrees to pay for adequate security officers as directed by the AUTHORITY Manager and Security Director at above stated event.

____7) ALCOHOLIC BEVERAGES: Any use of alcoholic beverages on the Colorado State Fairgrounds is subject to the AUTHORITY approval and notification to State of Colorado, Department of Revenue, and Liquor Enforcement. The SALE of alcoholic beverages is prohibited without a valid liquor license and Food/Beverage contract with the AUTHORITY.

____8) RESTROOM FACILITIES: Restroom facilities and supplies will be made available to USER by the AUTHORITY. USER, if required, will furnish restroom attendants.

____9) INSTALLATIONS/DECORATIONS: USER is hereby granted permission to install at USER'S expense such items as displays, exhibits, decorations, etc, but will not be permitted to move or change any permanent fixtures attached to and a part of the building/facility, or to nail or tack any materials to the walls or ceilings of said buildings/facilities. USER further agrees to refrain from marring or defacing said building/facilities in any form whatsoever, and return premises in same condition as when received, ordinary wear and tear accepted. USER also agrees not to put tape on floors (painters tape or electrical tape may be used but must be removed after event). USE OF GLITTER, CONFETTI AND FOG MACHINES IS STRICTLY PROHIBITED; use of these items will result in forfeiture of damage deposit and/or additional fees.

____10) REMOVAL OF EXHIBITS: USER agrees to pay the AUTHORITY (at current storage rate) for any material or merchandise left in buildings or on the premises after Authorized Rental/Occupancy period the AUTHORITY shall not be responsible for loss or damage to any merchandise or materials left on premises after event. USER also agrees to remove all signs, banners, and any other promotional material or advertisements immediately upon completion of the event. Should the AUTHORITY have to remove any of the above stated materials, the damage deposit will be retained as a clean-up/storage fee.

____11) CLEANING: USER agrees to remove USER'S exhibits, displays, decorations, and all garbage, debris, etc., no later than 11:59 p.m. on the final day of the Rental Period. USER further agrees to return premises in same condition as when received, ordinary wear and tear accepted. All garbage must be removed from building and deposited in appropriate collection containers. The AUTHORITY agrees to remove all refuse and recycling from outside collection containers. Should USER fail to remove garbage, displays or decorations and fail to leave the building in an acceptably clean state, the damage deposit will be retained by the AUTHORITY as a clean-up fee and additional charges may apply.

____12) ELECTRICAL POWER: Building/Facilities are rented where is, as is, with normal amount of electrical power, equipment, appliances, etc. Abnormal usage of power shall be paid by USER. No cutting into electrical lines is permitted. USER agrees to request any special electrical requirements for said event not later than two (2) weeks in advance of said event. The AUTHORITY will be sole judge of determining the availability and/or overload of electrical services and shall exercise the right to control the same.

____13) LIABILITY: To the extent permitted by law, the USER hereby agrees to indemnify, save, defend and hold harmless the Colorado State Fair Authority, its officers, agents, servants and employees from any and all claims, causes of action, and suits accruing or resulting from damage, injury or loss to any person or persons or personal property, including all persons to whom the USER may be liable under any workmen's compensation laws, and the USER himself, and from any loss, damage, cause of action, claims, or suits for damage, including but not limited to loss of property, goods, wares, merchandise, or livestock, caused by, arising out of, or in any way connected with the exercise USER'S privileges herein.

____14) INSURANCE/GIA: 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. 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, of the GIA, as applicable now or hereafter amended.

____15) LESSOR LIABILITY EXPOSURE. Notwithstanding any other provision of this lease to the contrary, no term or condition of this lease shall be construed or interpreted as a waiver of any provision of the Colorado Governmental Immunity Act, §24-10-101 et seq., C.R.S., as now or hereafter amended. The parties hereto understand and agree that liability for claims for injuries to persons or property arising out of the 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 §24-30-1501, et seq., C.R.S., as now or hereafter amended. Any provision of this lease, whether or not incorporated herein by reference, shall be controlled, limited and otherwise modified so as to limit any liability of the Lessor to the above cited laws.

16) 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 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. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. 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 shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

____17) COMPLIANCE WITH LAW. Contractor shall strictly 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.

____18) CHOICE OF LAW. 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. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.

____19) BINDING ARBITRATION PROHIBITED. The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

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

USER/Contractor: <u>City of Pueblo, a Colorado municipal corporation</u> Legal Name of Contracting Entity _____ Signature of Authorized Officer* <u>Nicholas A. Gradisar, Mayor</u> Printed Name & Title of Authorized Officer _____ Date <u>84-6000615</u> Social Security Number or FEIN	State of Colorado: Colorado State Fair Authority 1001 Beulah Ave. Pueblo, CO 81004 719.561.8484 _____ Scott Stoller, General Manager _____ Date
--	---

In accordance with §24-30-202, C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____
Lea Cassidy, Controller Delegate

Date: _____



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 10, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Barb Huber, Fire Chief

SUBJECT: AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN COLORADO STATE PATROL AND THE CITY OF PUEBLO RELATING TO USE OF THE PUEBLO FIRE DEPARTMENT TRAINING FACILITIES

SUMMARY:

This ordinance approves an IGA with Colorado State Patrol and their use of Pueblo Fire training facilities and location.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

As part of emergency planning and collaboration, the City of Pueblo enters into this agreement with the Colorado State Patrol to allow the sharing of training facilities and equipment thus improving community partnerships and responses.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

None.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. CSPIGA042423

ORDINANCE NO.

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN COLORADO STATE PATROL AND THE CITY OF PUEBLO RELATING TO USE OF THE PUEBLO FIRE DEPARTMENT TRAINING FACILITIES

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

SECTION 1.

The Intergovernmental Agreement ("Agreement") between Pueblo, a Colorado Municipal Corporation and Colorado State Patrol, 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 _____.

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
FOR
USE OF PUEBLO FIRE TRAINING FACILITIES**

THIS AGREEMENT (“Agreement” or “IGA”) is made and entered into as of the 24th day of April, 2023 (the “Effective Date”), by and between Colorado State Patrol Hazardous Materials Section, a law enforcement subdivision of the Colorado Department of Public Safety, (hereinafter referred to as “Permittee”), and Pueblo, a Municipal Corporation, 1 City Hall Place, Pueblo, Colorado (hereinafter referred to as “City”).

WHEREAS, pursuant to its authority under law, Permittee provides law enforcement, environmental protection, and critical incident mitigation services within its jurisdictional area, and in connection therewith, provides training and education in National Fire Prevention Association disciplines to its employees and trainees (collectively “Trainees”); and

WHEREAS, City owns and operates a Training Tower, Burn Room, Training Tower Classroom (collectively, “City Facilities”) and surrounding grounds for the use and training of members of the City’s Fire Department, which City Facilities are not always in use and may be available for training by other governmental units engaged in fire science functions; and

WHEREAS, Permittee desires to use the City Facilities in connection with its mission to training provided by Permittee to its Trainees; and

WHEREAS, City is willing, subject to the conditions set forth in this Agreement, to allow use by Permittee of the City Facilities, when not necessary for use by City, in order to cooperate with Permittee in Permittee’s efforts to provide meaningful training to its Trainees; and

WHEREAS, Permittee has access to equipment, props, training aids, personnel resources, and additional logistic resources of interest to City and its fire science mission.

WHEREAS, the parties are empowered by §29-1-203, C.R.S. to enter into this IGA for the purpose of setting forth the manner in which the parties intend to cooperate, train, and

WHEREAS, the legislative body of Permittee has specifically authorized Permittee to enter into this IGA and has authorized the undersigned representative of Permittee to execute this Agreement on its behalf and thereby contractually obligate and bind Permittee to the terms of this Agreement;

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the parties agree as follows:

1. Subject to the terms, conditions, and requirements of this Agreement, City agrees to permit Permittee and its Trainees to use and occupy the following City Facilities when such facilities are not otherwise scheduled for or in use for City’s needs and functions:

- (a) the Training Tower located at Murray Road, Pueblo, Colorado;

- (b) the classroom located on the Training Tower grounds; and
- (c) the Burn Room facility located adjacent to the Training Tower,
- (d) the fenced-in areas surrounding the Training Tower grounds

which may be collectively referred to herein as the “City Facilities.”

2. Subject to the terms, conditions and requirements of this Agreement,

- (a) City agrees to permit Permittee and its Trainees to use and train with the following City equipment:
 - (i) Rescue saws, fire axes, fire hoses and various hand and power tools located at the City Facilities, which is referred to herein as “City Equipment”.
- (b) Permittee agrees to permit City and its Trainees to use and train with the following Permittee equipment:
 - (i) All props, training aids, stored supplies/equipment, stored vehicles, and notional property to be located at the City Facilities, which is referred to herein as “Permittee Equipment”.
- (c) “IGA Property” herein shall refer to that Equipment which is owned, maintain, and controlled by either City or Permittee, designated as items of mutual training interest and by definition are restricted to the interest items specifically listed herein.

3. City and Permittee shall, at all times, have an experienced and qualified training instructors physically present and directly supervising Trainees when Trainees are upon City Facilities and when IGA Property is being used or demonstrated. It shall be the exclusive responsibility of Permittee and City to assure that their respective Instructors provide Trainees with all appropriate safety instruction and training on the operation and use of IGA Property prior to any handling or use of same. Additionally, prior to the first entry upon City Facilities or the colocation of Permittee Equipment, City and Permittee shall require all of its Trainees and Instructors who enter City Facilities and utilize IGA Property to sign a Release of Liability Agreement on the form attached hereto as Exhibit “A”. Exhibit “A”, in short, upholds the independent denial of bilateral exposure to liability due to negligence, misinformation, miscommunication, poor planning, intentional acts, or non-compliance with this agreement on part of City and Permittee.

4. This IGA does not allow for City to drive Permittee owned patrol vehicles nor does it allow Permittee to drive City fire or rescue vehicle under no circumstances. Additionally, this IGA does not commit either party to mutual aid support to actual emergency response events during periods of joint City Facility utilization.

5. At all times during the term of this Agreement, Permittee shall be deemed as an independent contractor and its Instructors and Trainees shall be its employees and shall not be employees of the City. Permittee shall be responsible in accordance with law for all withholding taxes, social security, pension, unemployment, workers' compensation, and other employment taxes with respect to its Instructors and Trainees, and, to the maximum extent permitted by law, it shall indemnify, defend and hold City harmless from and against any and all claims for the same. Permittee and any insurance carrier providing Workers' Compensation coverage for the Permittee's Instructors and Trainees shall be deemed to have waived all rights of subrogation against City for injury or loss arising from such Instructor's and Trainee's entry and presence upon the City Facilities and use of the City Facilities or City Equipment.

6. City shall neither request, nor be entitled to, any financial compensation no stated herein and no person, entity, contactor, designee, or official of the City be deemed to be employed, insured, bonded, or under the command of the Permittee. City's coextensive reciprocation of indemnify pursuant to section 5 is compulsory and Permittee shall remain harmless from and against any and all claims for the same.

7. The term of this Agreement shall commence on the Effective Date and shall expire at exactly 11:59 p.m. on the one year anniversary of the Effective Date; provided, however, that City may terminate this Agreement at any time upon thirty (30) days advance written notice to Permittee without interruption of access to City Facilities until (1) within the 30 day period, Permittee has removed all Permittee Equipment from City Facilities, or (2) 30-day period has elapsed upon which condition on-site Permittee Equipment may be forfeited to upon mutual agreement. The provisions of sections 5, 6, 7, 8, and 10 shall survive the expiration or termination of this Agreement.

8. **Special Requirements for Burn Room Use.** The Burn Room provides unique opportunities for education and training, but also presents greater risks of injury or death than most emergency responder education or training events. Additionally, use of the City's Burn Room involves costs to the City for equipment, manpower, fuel supplies and for consumable/expendable components. Permittee's need to regularly use the Burn Room is not expected. Consequently, use of the Burn Room by Permittee shall be subject to following additional requirements, which must be strictly complied with by Permittee:

(a) Trainees, Instructors and others using the Burn Room under Permittee's authorization shall be either certified as a Fire Fighter I (per the Division of Fire Safety, Colorado Department of Public Safety, "Certification Policy and Procedure Manual," Section 9.3, Rev. 12/1/06), or must have completed all the training for a Fire Fighter I certification.

(b) Permittee shall provide a pumper truck, or arrange in advance for a City Fire Department pumper truck, to be present and standing by during all burn events at the Burn Room. If the pumper truck is provided by City, Permittee shall pay to City rental fees for the Pumper Truck in the amount of \$225 per hour or portion thereof, with a minimum charge of three (3) hours. Time of use shall commence at the time the Pumper Truck departs its base station en route to the Burn Room, and run until it returns to its station and is ready for service again.

(c) During all use of the Burn Room, Permittee shall, at Permittee's expense, have a qualified Safety Officer present to provide oversight of training, instructors and Trainees. The Permittee Safety Officer shall ensure that all persons operating within the fire ground perimeter shall operate under his oral direction and control. The Safety Officer and all Instructors shall be equipped with operable personal radios set to an assigned radio channel or cellular phone.

(d) Prior to and during any burn event, Permittee shall, at Permittee's expense, provide for a certified Rapid Intervention Team ("RIT") to be present, staffed by experienced firefighting personnel. The RIT shall consist of a minimum of two fire fighters.

(e) Permittee shall follow the standard Incident Command System procedures while present on the training grounds. By executing this Agreement, Permittee certifies it is familiar with these procedures and able to comply therewith.

(f) At the conclusion of each day's burn events, Permittee shall ensure the following independent usage of the Burn Room:

- (i) all fires are completely extinguished, including burn barrels;
 - (ii) all areas are swept clear and all hay and pallets removed and/or properly stored;
 - (iii) floors shall be squeegeed and no standing water left in the building;
 - (iv) exterior concrete around the burn building shall be washed off after cooling;
 - (v) all trash shall be picked up and properly disposed of;
 - (vi) all doors and windows to the burn building shall be closed and locked, if used
 - (vii) all lights and power to the facility shall be turned off, if used;
 - (viii) Permittee shall promptly report to City all damage to equipment, fixtures and building;
 - (ix) water shall be turned off;
 - (x) all equipment shall be cleaned and stored in its designated location;
- and
- (xi) all bathrooms shall be cleaned.

(g) During joint training events, City Instructors and Trainees will certify that City Facilities and Permittee equipment are inspected for damage, cleanliness, and presentation standards. Discrepancies are required to be reported immediately to the senior Permittee and City personnel on-site.

9. This Agreement is not intended to, nor shall it create, any duty to any Trainee, Instructor, other Permittee employee, or any other person, firm or entity with regard to the provision of facilities or equipment by City, nor security, level of safety, or activities undertaken by City's employees or conditions resulting therefrom. No Trainee, Instructor, Permittee employee, or other person, firm or entity shall be granted or have any private right of action, claim or civil liability remedy against the City or Permittee, or their respective officers, employees or agents, by virtue of this Agreement. Nothing in this Agreement shall be construed to create any liability, or to waive any of the immunities, limitations on liability or other provisions of the Governmental Immunity Act, §24-10-101 *et seq.*, C.R.S., or to waive any immunities or limitations on liability otherwise available to the City, Permittee, or their officers, employees or agents.

10. This Agreement constitutes the entire agreement between the parties, and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. No modification of this Agreement, and no waiver of any of the Agreement's provisions or conditions, shall be binding unless made by written document signed by the parties. Any delegation or assignment of this Agreement by either party, without the prior written consent of the other party, shall be void. This Agreement shall be governed by, and construed according to, the laws of the State of Colorado.

11. City and Permittee acknowledge that the use of the City Facilities, City Equipment, and Permittee Equipment present inherent dangers and that use of tools, equipment, training props, training grounds, unfamiliar equipment, and repurposed devices present inherent risks. The use by Trainees and Instructors of the IGA Equipment is "AS IS" and in its existing condition, whatever that may be. **NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, IS MADE BY THE CITY OR PERMITTEE CONCERNING THE SAFETY, USABILITY, OR FITNESS FOR ANY PURPOSE, OF THE CITY FACILITIES AND IGA EQUIPMENT FURNISHED HEREUNDER, AND BOTH PARTIES EXPRESSLY DISCLAIM ANY AND ALL SUCH WARRANTIES.** Permittee shall obtain a signed release of liability agreement from each Permittee Trainee and Instructor on the form required by section 3 of this Agreement. Permittee shall be deemed as released from liability upon acceptance of liability agreements by City and execution of this agreement pursuant to sections 5 and 6.

12. In the event this Agreement or any material provision hereof shall be declared to be invalid, unenforceable, or in violation of any applicable federal, state or local laws or regulations, the parties will immediately begin negotiations to modify or amend this Agreement in order that this Agreement shall, as amended, express and contain the understanding and intentions of the parties.

13. Except as set forth elsewhere in this section, all notices to be given under this

Agreement shall be made in writing, and shall be sufficient if delivered personally, or mailed by First Class United States Mail, postage prepaid, to the other party at the following addresses:

If to Permittee: Colorado State Patrol Hazardous Materials Section
Attn: Master Sergeant Steve Krebs
5615 Wills Blvd
Pueblo, CO, 81008

If to the City: Pueblo Fire Department
Attn: Fire Chief
1551 Bonforte Boulevard
Pueblo, CO 81001

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the day and year first written above.

PERMITTEE:

By _____
Name: _____

Title: _____

PUEBLO, A MUNICIPAL
CORPORATION

By: _____
Mayor

Attest:

City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit "A"

Instructor and Trainee
Release of Liability Agreement

I. RELEASE OF LIABILITY AGREEMENT: PARTICIPANT MUST READ CAREFULLY BEFORE SIGNING

In consideration for being permitted to use and occupy certain City Facilities and to use and train with certain City Equipment in connection with instruction provided by [insert name of IGA party], I hereby acknowledge, represent, and agree as follows:

A. I understand that use of said Facilities and Equipment and related activities are inherently dangerous and do or may involve risks of death, injury, loss, or damage. I further acknowledge that such risks may include, but not be limited to, bodily injury, personal injury, sickness, disease, death, and property loss or damage. I acknowledge that such risks may arise from a variety of foreseeable and unforeseeable circumstances connected with the use of the Facilities and Equipment and related activities, including but not limited to the following risks: burns, smoke inhalation, heart attack, back injury, skeletal injuries, hernia, muscular injuries, eye injuries, loss of fingers or limbs, and injuries related to heavy lifting, pulling, pushing and climbing.

_____(Participant initials here)

B. I hereby expressly assume all such risks of injury, loss, or damage to me arising out of or in any way related to the above-described use of said facilities and equipment and related activities, whether or not caused by the act, omission, negligence, or other fault of the City of Pueblo, its officers, its employees, or by any other cause.

_____(Participant initials here)

C. I understand and acknowledge that the City of Pueblo, its officers, and its employees are relying on, and do not waive or intend to waive by any provision of this **RELEASE OF LIABILITY AGREEMENT**, the monetary limitations (presently \$350,000 per person and \$990,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. §24-10-101, et. seq., as amended, or otherwise available to the City of Pueblo, its officers, or its employees. I hereby agree that this Release of Liability Agreement extends to all acts of negligence by City, its officers and employees, including negligent rescue operations, and is intended to be as broad and inclusive as permitted by the laws of Colorado.

_____(Participant initials here)

D. I understand and agree that this **RELEASE OF LIABILITY AGREEMENT** shall be governed by the laws of the State of Colorado, and that jurisdiction and exclusive venue for any suit or cause of action under this Release of Liability Agreement shall lie in the district court of Pueblo County, Colorado and I consent to and submit to the jurisdiction of that Court.

_____ (Participant initials here)

E. This **RELEASE OF LIABILITY AGREEMENT** shall be effective as of the date set forth below (or the date signed if the date has not been completed) and shall be binding upon me, my successors, representatives, heirs, executors, assigns, and transferees.

_____ (Participant initials here)

II. PARTICIPANT SIGNATURE AND DATE:

Trainee/Instructor-Print Name: _____ Date: _____

Trainee/Instructor Signature: _____

Witness: _____



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 10, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Robert Jagger, Deputy City Attorney
Alexandria Romero, Director of Finance

SUBJECT: AN ORDINANCE AMENDING SECTION 14-4-77 OF THE PUEBLO MUNICIPAL CODE RELATING TO ITEMS EXEMPT FROM USE TAX AND CLARIFYING THAT THE USE TAX EXEMPTION WITH RESPECT TO NONRESIDENTS AND PROPERTY PURCHASED PRIOR TO RESIDENCY APPLIES ONLY TO INDIVIDUALS AND PERSONAL USE OF SUCH PROPERTY

SUMMARY:

The proposed Ordinance clarifies that the nonresident use tax exemption applies only to an individual and only to such individual's personal use of the tangible personal property brought into the City.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

This exemption has remained unchanged since its original enactment in 1955. Consistent with such enactment at the time and subsequent caselaw including Rocky Mountain Prestress, Inc. v. Johnson, 574 P.2d 88, 89 (Colo. 1978), this exemption has been construed and applied only to an individual and only to such individual's personal use of the tangible personal property brought into the City. Recently, confusion has been expressed by taxpayers as to the scope of this exemption. The proposed Ordinance will clarify the exemption so that such confusion will not exist.

FINANCIAL IMPLICATIONS:

None. This Ordinance only provides clarifying language consistent with its past application.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could choose not to enact the Ordinance, in which case, the Ordinance will continue to be a potential source of confusion to taxpayers.

RECOMMENDATION:

Administration recommends passage and approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 14-4-77 OF THE PUEBLO MUNICIPAL CODE RELATING TO ITEMS EXEMPT FROM USE TAX AND CLARIFYING THAT THE USE TAX EXEMPTION WITH RESPECT TO NONRESIDENTS AND PROPERTY PURCHASED PRIOR TO RESIDENCY APPLIES ONLY TO INDIVIDUALS AND PERSONAL USE OF SUCH PROPERTY

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

Section 14-4-77 of the Pueblo Municipal Code, is amended to read as follows:

Sec. 14-4-77. Items exempt from use tax.

This tax or excise of the storage, consumption and use of tangible personal property is hereby declared to be supplementary to the City tax on retail sales as provided in this Chapter and shall not apply:

- (1) To the storage, use or consumption of any tangible personal property the sale of which is subject to the City retail sales tax as provided herein.
- (2) To the storage, use or consumption of any tangible personal property purchased for resale in this City, either in its original form or compounded product, in the regular course of a business.
- (3) To the storage, use or consumption of motor fuel upon which there has accrued or has been paid the motor fuel tax prescribed by the Colorado Motor Fuel Tax Law of 1933, C.R.S. 138, Article 2.
- (4) To the storage, use or consumption of tangible personal property brought into this City by a nonresident thereof for his or her own storage, use or consumption while temporarily within this City, or to the personal property of a resident if such personal property was purchased prior to becoming a resident of this City. **The exemption provided herein shall apply only to an individual and only to such individual's personal use of the tangible personal property brought into the City.**
- (5) To the storage, use or consumption of tangible personal property of the United States government, or of the State or its institutions or political subdivisions in their governmental capacities only; or by charitable organizations as defined in Section 14-4-21 above in the conduct of their regular religious or charitable functions.
- (6) To the storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit or use any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label or the furnished shipping case thereof.
- (7) To the storage, use or consumption of electricity, coal, coke, fuel oil, steam, water or gas for use in processing, manufacturing, mining, refining, irrigation, telegraph, telephone and radio communication, street and railroad transportation services, electric power generation and all industrial uses; except that electricity, gas, coal, fuel oil, steam, water or coke used for lighting

or space heating in these operations shall not be exempt.

(8) To the storage and use of neat cattle, sheep, lambs, swine and goats within this City; or to the storage and use within this City of mares and stallions kept, held and used for breeding purposes only.

(9) To the storage, use or consumption of printers ink and newsprint.

(10) A credit shall be granted against the use tax imposed by Section 14-4-63 of this Chapter on any article of tangible personal property the sale of which has already been subjected to a retail sales tax. The amount of the credit shall be equal to: (a) if purchased within the State, the retail sales tax imposed, collected and remitted to a Colorado municipality, city or county, or (b) if purchased outside the State, the amount by which the retail sales tax imposed, collected and remitted to another state or political subdivision thereof, or both, exceeds the sales tax imposed by Section 39-26-106(1), C.R.S. The amount of the credit shall not exceed the use tax imposed by Section 14-4-63 of this Chapter. The credit will be denied if such retail sales tax was not legally due under the laws of such other taxing authority, or such laws are not compatible with those of the City as to specific taxation or exemption of the transaction in question. The credit shall not be granted for subsequent transactions within the City relating to such article of tangible personal property, including but not limited to rentals or leases thereof.

(11) To the storage or use of an automobile or other vehicle required to be registered under the Colorado Uniform Motor Vehicle Law by a purchaser who was not a resident of the City at the time of purchase and who purchased such vehicle outside of the City for use outside of the City and actually so used such vehicle for a substantial and primary purpose for which it was acquired, and who lawfully registered, titled and licensed such vehicle outside the City.

(12) To the storage, use or consumption of aircraft used or purchased for use in interstate commerce by a commercial airline.

a. Commercial airline means an airline carrying freight or passengers on regularly scheduled flights for a fee, but does not include a charter air carrier providing charter air transportation.

(13) To the storage, use or consumption of tangible personal property used in the initial construction and equipping of a new six-hundred-or-more-megawatt electric power generation facility constructed on or after January 1, 2005 ("electric power generation facility"). This exemption shall also apply for a period of ten (10) years after such an electric power generation facility becomes operational to tangible personal property stored, used or consumed in the maintenance, repair, refurbishing, remodeling, substitution, relocation or replacement of such an electric power generation facility, or any part thereof.

a. Operational means the date the electric power generation facility is deemed by its owner or any regulatory agency with appropriate jurisdiction to be placed into commercial operation pursuant to standards published by the Federal Energy Regulatory Commission and Financial Accounting Standards Board applicable to electric power generation facilities.

(14) To the storage, use or consumption of dyed diesel fuel, as that term is defined in Section 39-27-101(8), C.R.S., for use in the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, dwellings, structures, roads, highways or other changes or improvements to real property.

(15) To the storage, use or consumption of tangible personal property used in the initial construction and equipping of a new 200 or more megawatt electric power generation facility

located within an enterprise zone and constructed on or after June 1, 2010 and prior to January 1, 2012 ("electric power generation facility").

(16) To the storage, use or consumption of tangible personal property by schools in the conduct of their educational functions and activities.

SECTION 2.

The officers 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

SECTION 3.

This Ordinance shall become effective thirty days after the date of final action by the Mayor and City Council.

-

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 10, 2023

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
Marisa Pacheco, Director Human Resources

SUBJECT: AN ORDINANCE AMENDING THE FISCAL YEAR 2023 STAFFING ORDINANCE BY TEMPORARILY ADDING A POSITION WITHIN THE LAW DEPARTMENT FOR TRAINING PURPOSES

SUMMARY:

The City Attorney, with Mayor Gradisar's approval, requests to temporarily increase the staffing level of the Law Department by one (1) full time equivalent (FTE) for training purposes. The classification shall be Legal Assistant and the additional FTE shall be abolished upon the anticipated retirement of the current incumbent in the position effective December 1, 2023 upon her retirement.

PREVIOUS COUNCIL ACTION:

On December 27, 2022, Ordinance No. 10363 was approved by City Council. This Ordinance provided authorized staffing for Fiscal Year 2023.

BACKGROUND:

The Legal Assistant for the City has announced plans to retire at the end of November 2023 after a distinguished career with the City of over 30 years. There is no mechanism in ordinance to allow for temporary overfilling of a position in order to facilitate critical training and transition activities. Therefore, the department requests the addition of a Legal Assistant FTE on a temporary basis to accomplish the necessary training. It is anticipated that the position requested by this ordinance will be posted in the next several months and will then be filled in August to allow for several months of overlap prior to the current incumbent's departure.

It is further requested that the additional FTE be abolished upon separation of the current Legal Assistant via retirement.

FINANCIAL IMPLICATIONS:

Funding for the wages and benefits for the position will come from the General Fund. The cost for the four months of the additional position is approximately \$30,418 and can be absorbed by the Law Department's 2023 budget through salary and operational savings, pending City Council approval.

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

The no-action alternative would be to retain the current staffing level, which would eliminate any opportunity to train a newly hired Legal Assistant, which would be undesirable.

RECOMMENDATION:

Approval of this Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE AMENDING THE FISCAL YEAR 2023
STAFFING ORDINANCE BY TEMPORARILY ADDING A
POSITION WITHIN THE LAW DEPARTMENT FOR TRAINING
PURPOSES

WHEREAS, it is necessary to revise the positions for the ultimate efficiency and functionality for the Law Department; NOW, THEREFORE,

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

SECTION 1.

The following section captioned "Law Department" "of Ordinance No. 10363, being the 2023 Staffing Ordinance, is amended as follows:

The following positions shall be authorized for FY 2023:

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] 2
Legal Support Assistant	1
Total	[9] 10

SECTION 2.

Effective December 1, 2023, the position established pursuant to above Section 1 shall be abolished and the 2023 Staffing Ordinance shall be amended as follows:

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	[2] 1
Legal Support Assistant	1
Total	[10] 9

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 implement and transactions described therein.

SECTION 4.

This Ordinance shall be deemed to amend the Fiscal Year 2023 Budget and staffing with respect to the number and allocation of positions within Law Department and shall become

effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 10, 2023

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 THE PUEBLO COOPERATIVE CARE CENTER, A COLORADO NONPROFIT CORPORATION RELATING TO ITS MOBILE SHOWER PROGRAM AS AUTHORIZED BY SECTION 603 (C)(1)(A) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF FORTY THOUSAND DOLLARS (\$40,000) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

SUMMARY:

This Ordinance approves a Subrecipient Agreement between the City and the Pueblo Cooperative Care Center ("Center") to support the Center's Mobile Shower Program ("MSP"). Funds authorized by this Ordinance can be used to operate the Center's MSP and can also be applied to pay the acquisition costs of an additional vehicle and an ADA compliant, 3-Stall Shower Trailer. The equipment shall be used to provide shower facilities for homeless individuals at various locations throughout the community.

PREVIOUS COUNCIL ACTION:

On December 9, 2019, by Ordinance No. 9613, City Council approved an Agreement for Community Development Services in the amount of \$35,000 between the City and the Center for the Center to acquire a ¾ ton vehicle and an ADA compliant, 3-Stall Shower Trailer.

On September 13, 2021, by emergency Ordinance No. 10008, City Council approved a Subrecipient Agreement with the Center which awarded ARPA funds to the Center as follows:

Program	Amount
Power-Up Kidz Sacks program	\$ 36,690
Nutrition on wheels program	169,844
Computer, mobile telephone and security equipment to serve persons experiencing food insecurity	23,725
TOTAL	\$ 230,259

BACKGROUND:

There are limited facilities within the City of Pueblo where homeless individuals can shower and accomplish basic hygiene tasks, and the lack thereof can lead to increased instances of illness. The MSP allows homeless individuals increased access to hygiene. Having a mobile facility will allow for increased outreach, improved health outcomes, and deter congregation at a single fixed facility.

There exists a need to provide basic hygiene services to individuals experiencing homelessness in the community. The Pueblo Cooperative Care Center, a Colorado non-profit corporation, wishes to provide basic services to homeless individuals within our community, and has developed a program to provide mobile shower facilities to the homeless within the City.

FINANCIAL IMPLICATIONS:

The Center will receive \$40,000 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 this ARPA Project.

RECOMMENDATION:

Approval of the Ordinance

ATTACHMENTS:

1. ARPA 15 - Coop Care- Sub Agreeet_FINAL_04.10.23

ORDINANCE NO.

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE PUEBLO COOPERATIVE CARE CENTER, A COLORADO NONPROFIT CORPORATION RELATING TO ITS MOBILE SHOWER PROGRAM AS AUTHORIZED BY SECTION 603 (C)(1)(A) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF FORTY THOUSAND DOLLARS (\$40,000) 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; and

WHEREAS, under ARPA Section 603 (c)(1)(A) and (3) and the Final Rule 31 CFR 35.6(b)(7) recipients may use CLFR Funds to award grants to nonprofit organizations that are responding to the negative economic impacts of the COVID-19 public health emergency; NOW, THEREFORE,

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

SECTION 1.

The Subrecipient Agreement (“Agreement”) dated April 24, 2023, between the City of Pueblo, a Colorado municipal corporation and the Pueblo Cooperative Care Center, a Colorado nonprofit corporation (“Center”) 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 \$40,000 are hereby authorized to be paid from Project No. CI2113 – American Rescue Plan Act, to the Center to support the Center’s Mobile Shower Program (“MSP”). Funds authorized by this Ordinance can be used to operate the Center’s MSP and also be applied to pay the acquisition costs of an additional vehicle and an ADA compliant, 3-Stall Shower Trailer. The equipment shall be used to provide shower facilities for homeless individuals at various locations throughout the community.

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 24th day of April, 2023 (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and Pueblo Cooperative Care Center ("Center") a Colorado nonprofit corporation, hereinafter referred to as the "Subrecipient" or "Center." City and Subrecipient/Center 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, under ARPA Section 603 (c)(1)(A) and (3) and the Final Rule 31 CFR 35.6(b)(7) recipients may use CLFR Funds to award grants to nonprofit organizations that are responding to the negative economic impacts of the COVID-19 public health emergency; and

WHEREAS, the Center has requested funds to support the Center's Mobile Shower Program ("MSP"). Funds authorized by this Agreement can be used to operate the Center's MSP and can also be applied to pay the acquisition costs of an additional motor vehicle and/or an ADA compliant, 3-Stall Shower Trailer (hereinafter "Project"). The motor vehicle and/or trailer shall be used to provide shower facilities for homeless individuals at various locations throughout the community; 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. Under ARPA Section 603 (c)(1)(A) and (3) and U.S. Treasury Final Rule 31 CFR 35.6(b)(7) recipients may use Coronavirus State & Local Fiscal Recovery Funds (“CSLFRF”) to award grants to nonprofit organizations that are responding to the negative economic impacts of the COVID-19 public health emergency.
- b. The Pueblo City Council (the “Council”) recognizes that helping local organizations working within the City is beneficial to the health, safety and welfare of the people in the City.
- c. There are limited facilities within the City of Pueblo where homeless individuals can shower and accomplish basic hygiene tasks, and the lack thereof can lead to increased instances of illness. The MSP allows homeless individuals increased access to hygiene. Having a mobile facility will allow for increased outreach, improved health outcomes, and deter congregation at a single fixed facility.
- d. There exists a need to provide basic hygiene services to individuals experiencing homelessness in the community. The Center wishes to provide basic services to homeless individuals within our community and has developed a program to provide mobile shower facilities to the homeless within the City.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT.

- a. Prior to receiving ARPA funds under this Agreement, Subrecipient is required to provide the City with the following information and documentation:

- (1) Federal SAM Unique Entity ID;
 - (2) IRS designation as a 501(c)(3) nonprofit entity;
 - (3) Certificate of Good Standing from the Office of the Secretary of State;
 - 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 Mayor shall be deemed the 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 Section 4 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 Forty Thousand Dollars (U.S. \$40,000.00). City shall make said funds available 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 City for convenience upon ten (10) days written notice to Subrecipient, 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. 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. Subrecipient further agrees to indemnify and save harmless the City, its officers, agents and employees, from and against all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property or based upon or arising out of the performance or nonperformance of this Agreement by Subrecipient or out of any violation by Subrecipient of any statute, ordinance, rule or regulation.
- 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. The City does not waive or intend 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 AGAINST CITY. 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.

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]

PUEBLO COOPERATIVE CARE CENTER
A COLORADO NONPROFIT CORPORATION

By: _____

Name: _____

Title: _____

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 Center has requested funds to support the Center's Mobile Shower Program ("MSP"). Funds authorized by this Agreement can be used to operate the Center's MSP and can also be applied to pay the acquisition costs of an additional motor vehicle and/or an ADA compliant, 3-Stall Shower Trailer. The motor vehicle and/or trailer shall be used to provide shower facilities for homeless individuals at various locations throughout the City of Pueblo.

C. Budget \$40,000.00

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 (16 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 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 this Agreement 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
Resolution**

COUNCIL MEETING DATE: April 10, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Heather Graham, President

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO PUEBLO COUNTY IN THE AMOUNT OF \$500 TO SPONSOR THE COUNTY COURTHOUSE LIGHTING CEREMONY AT 7 PM ON TUESDAY, NOVEMBER 21, 2023

SUMMARY:

Attached for consideration is a sponsorship request for the Pueblo County Courthouse Lighting ceremony. The event takes place at the Historic Courthouse in Pueblo and kicks off the holiday season every year with a laser show and fireworks.

PREVIOUS COUNCIL ACTION:

Council supported this event with \$500 in 2022 and 2021.

BACKGROUND:

The festivities kick off at 5 p.m. in front of the Historic Courthouse (215 W. 10th Street). Nick Donovan with KPHT 95.5 FM will emcee the pre-show and play festive music, food trucks will line the street so everyone can grab a bite to eat, first responder vehicles such as SWAT and fire trucks, police cruisers, the bomb squad, and ambulances will also be in attendance for kids and their families to check out.

FINANCIAL IMPLICATIONS:

Payment in the amount of \$500 from the Council Contingencies Account in the 2023 General Fund Budget would be paid to Pueblo County to sponsor the Pueblo County Courthouse Lighting ceremony on Tuesday, November 21, 2023.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

City Council could choose not to authorize funding for this event.

RECOMMENDATION:

This Resolution is at the request of Council Member Heather Graham.

ATTACHMENTS:

1. County Courthouse Lighting Sponsor Levels
2. 2023 Contingencies (Council) Courthouse Lighting

RESOLUTION NO. 15202

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO PUEBLO COUNTY IN THE AMOUNT OF \$500 TO SPONSOR THE COUNTY COURTHOUSE LIGHTING CEREMONY AT 7 PM ON TUESDAY, NOVEMBER 21, 2023

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$500 from the Council Contingencies Account in the 2023 General Fund Budget is authorized to be paid to Pueblo County to sponsor the Pueblo County Courthouse Lighting ceremony on Tuesday, November 21, 2023.

SECTION 2.

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

SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: April 10, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

Hello,

My name is Adam Uhernik, I work for Pueblo County Government, and I am the organizer of the annual **Courthouse Lighting Ceremony**. I would like to invite you and your organization to be a sponsor of our event. This year our program will take place on **Tuesday, November 21, 2023**. We have many sponsor opportunities to accommodate budgets of all levels, and your contribution will help pay expenses for our **free** community event.

We distribute our marketing materials 60 days before the event and those efforts are seen by a minimum of 70,000 people in Pueblo County and Southern Colorado. The night of our ceremony, if the weather is nice, about 5,000 people show up for the lighting of our historic building, fireworks & laser light show, Christmas decorations, food trucks, and fun festivities.

The ceremony will take place at 7 p.m. with the lighting of our Historic Courthouse and a laser light & fireworks show coordinated to holiday music. The festivities kick off at 5 p.m. in front of the Historic Courthouse (215 W. 10th Street). Nick Donovan with KPHT 95.5 FM will emcee the pre-show and play festive music, food trucks will line the street so everyone can grab a bite to eat, first responder vehicles such as SWAT and fire trucks, police cruisers, the bomb squad, and ambulances will also be in attendance for kids and their families to check out.

Please look at our sponsor opportunities carefully on the next page. We are offering more marketing opportunities than ever before based on the amount you donate. If you have any questions, please do not hesitate to reach out to me, my cell phone number is below. Also please check out our website www.courthouselights.com to learn more about the program.

Thank you for your consideration!

Adam Uhernik

Adam Uhernik

Public Information Officer

uhernik@pueblocounty.us

719-369-9666 (Cell Phone)

719-583-6534 (Office Phone)



CourthouseLights.com

Fireworks / Laser Light Sponsor \$5,000

- Your company name / logo placed on a 30-second video commercial which plays several times during NFL Sunday the weekend before lighting ceremony. The commercial is seen by up to 60,000 people in Southern Colorado.
- Exclusive tour of Courthouse to see Christmas decorations the night before lighting ceremony
- Fifteen tickets to sponsor reception with community leaders
- Your company name / logo prominently placed on marketing materials
- Special mentions on social media and email distribution list with 43,000 contacts
- Your company thanked before and during lighting ceremony
- Your company name on our website www.courthouselights.com
- Outreach table at event

Fireworks Sponsor \$2,500

- Your company name / logo placed on a 30-second video commercial which plays several times during NFL Sunday the weekend before lighting ceremony. The commercial is seen by up to 60,000 people in Southern Colorado.
- Ten tickets to sponsor reception with community leaders
- Your company name / logo prominently placed on marketing materials
- Special mentions on social media and email distribution list with 43,000 contacts
- Your company thanked before and during lighting ceremony
- Your company name on our website www.courthouselights.com
- Outreach table at event

Gold \$1,500

- Eight tickets to sponsor reception with community leaders
- Your company thanked and mentioned during lighting ceremony
- Special mentions on social media and email distribution list with 43,000 contacts
- Your company name on event website www.courthouselights.com
- Your company logo on marketing materials distributed to community
- Mentions on social media prior to event
- Outreach table at event

Silver \$500

- Four tickets to sponsor reception with community leaders
- Your company thanked and mentioned during lighting ceremony
- Your company name on event website www.courthouselights.com
- Your company logo on marketing materials distributed to community

Bronze \$350

- Your company thanked and mentioned during lighting ceremony
- Two tickets to sponsor reception with community leaders
- Your company name on event website www.courthouselights.com
- Your company logo on marketing materials distributed to community



COURTHOUSE LIGHTING

CourthouseLights.com

PLEASE FILL OUT AND EMAIL TO UHERNIK@PUEBLOCOUNTY.US

- 1. Your Name:**
- 2. Phone Number:**
- 3. Your Company/Organization Name:**
- 4. Your Company/Organization Mailing Address:**
- 5. Donation Amount \$**
- 6. Paying your sponsorship is easy. First email this page and your organization's logo to Adam Uhernik at uhernik@pueblocounty.us then send a check with your sponsorship amount made out to Pueblo County to:**

Pueblo County Courthouse

Attn: Adam Uhernik, PIO
215 W. 10th Street
Pueblo, CO 81003



COURTHOUSE LIGHTING

CourthouseLights.com

[illegible]



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Dennis Flores, Councilor

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO LATINO CHAMBER FOUNDATION IN THE AMOUNT OF \$2,000 TO SPONSOR THE ANNUAL TOSTADA EVENT AT 6 PM ON FRIDAY, MAY 5, 2023 AT THE SANGRE DE CRISTO ARTS & CONFERENCE CENTER

SUMMARY:

Attached for consideration is a request to sponsor a table of ten at the Tostada event on Friday, May 5, 2023 at the Sangre de Cristo Arts & Conference Center.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Mark your calendars for the Joe T. Ulibarri Tostada on Friday, May 5th 2023! This light-hearted event honors a local leader that is mildly insulted, amused, embarrassed, and generally highlighted by friends and acquaintances as they recall old stories, jokes, appearances, and miscues over the years. The local leader will be "roasted" by friends, family, and other leaders while the audience gets a good laugh for a good cause.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$2,000 would be paid from the Council Contingencies Account in the 2023 General Fund Budget to the Latino Chamber Foundation.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

City Council could choose not to authorize funding for this event.

RECOMMENDATION:

This Resolution is at the request of Council Member Dennis Flores.

ATTACHMENTS:

1. 18th Annual Tostada Sponsorship Opportunities
2. 2023 Contingencies (Council) Latino Chamber Tostada

RESOLUTION NO. 15203

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO LATINO CHAMBER FOUNDATION IN THE AMOUNT OF \$2,000 TO SPONSOR THE ANNUAL TOSTADA EVENT AT 6 PM ON FRIDAY, MAY 5, 2023 AT THE SANGRE DE CRISTO ARTS & CONFERENCE CENTER

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$2,000 from the Council Contingencies Account in the 2023 General Fund Budget is authorized to be paid to the Latino Chamber Foundation to sponsor the Tostada Dinner on Friday, May 5, 2023.

SECTION 2.

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

SECTION 3.

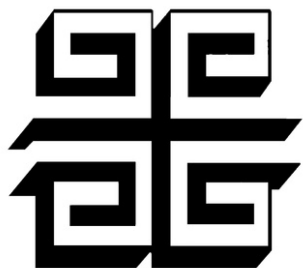
This Resolution shall become effective upon passage and approval.

INTRODUCED: April 10, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



Presents the 18th Annual Joe T. Ulibarri Tostada



Latino Chamber Foundation

Mark your calendars for the Joe T. Ulibarri Tostada on Friday, May 5th 2023! This light-hearted event honors a local leader that is mildly insulted, amused, embarrassed, and generally highlighted by friends and acquaintances as they recall old stories, jokes, appearances, and miscues over the years. The local leader will be "roasted" by friends, family, and other leaders while the audience gets a good laugh for a good cause.

Sponsorship Levels

JOKING \$3,000

- (1) Reserved corporate table – 10 seats
- Up to a minute commercial video played during the event (provided by sponsor)
- Full-page advertisement in the event program (provided by sponsor)
- Sponsor name/logo featured in the presentation & on table tents
- Media recognition on all digital and print advertising as a Joking Sponsor
- Sponsor banner displayed in the ballroom during the event
- Sponsor's promotional items placed on tables
- Sponsor name/logo featured on Latino Chamber's website and newsletter

TEASING \$2,000

- (1) Reserved corporate table – 10 seats
- Up to a minute commercial video played during the event (provided by sponsor)
- Half-page advertisement in the event program (provided by sponsor)
- Sponsor name/logo featured in the presentation & on table tents
- Media recognition on all digital and print advertising as a Teasing Sponsor
- Sponsor's banner displayed in the ballroom during the event

LAUGHING \$1,000

- (1) Reserved corporate table – 10 seats
- Half-page advertisement in the event program (provided by sponsor)
- Sponsor name/logo featured in the presentation & on table tents
- Media recognition on all digital and print advertising as a Laughing Sponsor

CORPORATE TABLES \$500

Program Ads Half Pg \$150 Full Pg \$250

INDIVIDUAL TICKETS \$50

[illegible]



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Heather Graham, President

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO PUEBLO CHILD ADVOCACY CENTER IN THE AMOUNT OF \$1,000 TO SPONSOR THE CAMPAIGN FOR CHILD ABUSE PREVENTION

SUMMARY:

Attached for consideration is a request for support of the Pueblo Child Advocacy Center for their campaign during the month of April in honor of National Child Abuse Prevention Month in lieu of their annual Gala.

PREVIOUS COUNCIL ACTION:

City Council supported the Pueblo Child Advocacy Center's annual Gala with \$1,200 in 2022.

BACKGROUND:

In an effort to bring an end to the child abuse epidemic, Pueblo Child Advocacy Center (PCAC) is organizing a campaign during the month of April in honor of National Child Abuse Prevention Month in lieu of our annual Gala. This is an ongoing initiative we hope continues to raise awareness about child abuse and prevention, while also reminding the community about how we serve the most vulnerable. We are proud of what we have accomplished since our inception in 1986 and look forward to a brighter future for our children with community partners like YOU.

PCAC offers high-quality care so abused children can thrive. The Center is a homelike, child-friendly environment where a coordinated team of experts in forensic interviewing, medical, law enforcement, victim advocacy, mental health, child protective services, and other disciplines come together to empower children and strengthen families while holding offenders accountable.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$1,000 would be paid from the Council Contingencies Account in the 2023 General Fund Budget to the Pueblo Child Advocacy Center.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

City Council could choose not to authorize funding for this event.

RECOMMENDATION:

This Resolution is at the request of Council Member Heather Graham.

ATTACHMENTS:

1. Child Advocacy Sponsorship Form
2. 2023 Contingencies (Council) Child Advocacy Center

RESOLUTION NO. 15204

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO PUEBLO CHILD ADVOCACY CENTER IN THE AMOUNT OF \$1,000 TO SPONSOR THE CAMPAIGN FOR CHILD ABUSE PREVENTION

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$1,000 from the Council Contingencies Account in the 2023 General Fund Budget is authorized to be paid to the Pueblo Child Advocacy Center to sponsor their April campaign in honor of National Child Abuse Prevention Month.

SECTION 2.

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

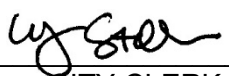
SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: April 10, 2023

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



Empower children and strengthen families by
reducing trauma and restoring hope.

Sponsorship Opportunities

☐ Diamond Sponsorship \$1000 • 10 signs with business/individual name and PCAC logo • 10 pinwheel lapel pins • 10 PCAC pinwheel pens • 10 PCAC notepads • 10 PCAC bamboo phone holders	☐ Ruby Sponsorship \$750 • 5 signs with business/individual name and PCAC logo • 5 pinwheel lapel pins • 5 PCAC pinwheel pens • 5 PCAC notepads • 5 PCAC bamboo phone holders
☐ Sapphire Sponsorship \$500 • 3 signs with business/individual name and PCAC logo • 3 pinwheel lapel pins • 3 PCAC pinwheel pens • 3 PCAC notepads • 3 PCAC bamboo phone holders	☐ Emerald Sponsorship \$250 • 2 signs with business/individual name and PCAC logo • 2 pinwheel lapel pins • 2 PCAC pinwheel pens • 2 PCAC notepads • 2 PCAC bamboo phone holders
☐ Pearl Sponsorship \$100 • 1 sign with business/individual name and PCAC logo • 1 pinwheel lapel pin • 1 PCAC pinwheel pen • 1 PCAC notepad	☐ Individual Sponsorship \$50 • 1 sign with business/individual name and PCAC logo

Count us in! Please select the sponsorship package above. Provide the below requested information through online registration with the provided QR code or through the events at www.pueblolocac.org/donate, by mailing payment to 301 W. 13th St., Pueblo, CO 81003, or by calling Keeley at (719) 583-6333.

Organization/Individual _____

Address _____ Zip _____

Contact Person Name _____ Phone _____

Contact Person Email _____

Payment Options

- ☐ Check included, payable to PCAC or Pueblo Child Advocacy Center.
- ☐ Invoice requested, please send to email or mailing address listed below.
- ☐ Paid by card through online registration www.pueblolocac.org (Qgiv) or QR code.



301 W. 13th Street
Pueblo, CO 81003
(719) 583-6333
www.pueblolocac.org



[illegible]



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Sarah Martinez, Councilor

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO SOUTHERN COLORADO HARM REDUCTION ASSOCIATION IN THE AMOUNT OF \$2,500 AS THE FISCAL AGENT FOR THE GANG ALTERNATIVE PROGRAM OF PUEBLO TO SPONSOR THE GUN BUYBACK PROGRAM

SUMMARY:

A Resolution authorizing payment from the council contingencies account in the 2023 general fund budget to Southern Colorado Harm Reduction in the amount of \$2,500 as the fiscal agent for the Gang Alternative Program of Pueblo to sponsor the Gun Buyback Program. This amount will be matched by the Mayor's contingencies fund for a total of \$5,000.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

These efforts, led by Frank Arteaga, move Pueblo in a positive direction. The deaths of Puebloans by gun violence is unacceptable. Any number of guns collected is of help to Pueblo's community. Mr. Arteaga has demonstrated respect of street trust into retrieving hand guns no questions asked and submitting the weapons to the Pueblo Police Department for final disposition.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$2,500 would be paid from the Council Contingencies Account in the 2023 General Fund Budget to the Southern Colorado Harm Reduction Association who is serving as the fiscal agent for the Gang Alternative Program of Pueblo.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

City Council could choose not to authorize funding for this purpose.

RECOMMENDATION:

This Resolution is at the request of Council Member Sarah Martinez.

ATTACHMENTS:

1. GAPP Letter of Support Comadres
2. GAPP Poster
3. 2023 Contingencies (Council) Gun Buyback GAPP

RESOLUTION NO.

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO SOUTHERN COLORADO HARM REDUCTION ASSOCIATION IN THE AMOUNT OF \$2,500 AS THE FISCAL AGENT FOR THE GANG ALTERNATIVE PROGRAM OF PUEBLO TO SPONSOR THE GUN BUYBACK PROGRAM

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$2,500 from the Council Contingencies Account in the 2023 General Fund Budget is authorized to be paid to the Southern Colorado Harm Reduction Association in support of the Gang Alternative Program of Pueblo to sponsor the Gun Buyback Program.

SECTION 2.

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

SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: April 10, 2023

BY: Vicente Martinez Ortega

MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

Thank You
for all
Forth

March 20, 2023

Pueblo City Council,

"Las Comadres" attest to the credibility of Frank Arteaga and the GUN BUY BACK PROGRAM. On behalf of our organization we see the value of what Mr. Arteaga is doing for our city of Pueblo as a legitimate and well- intended good it does for Pueblo's ongoing gun violence.

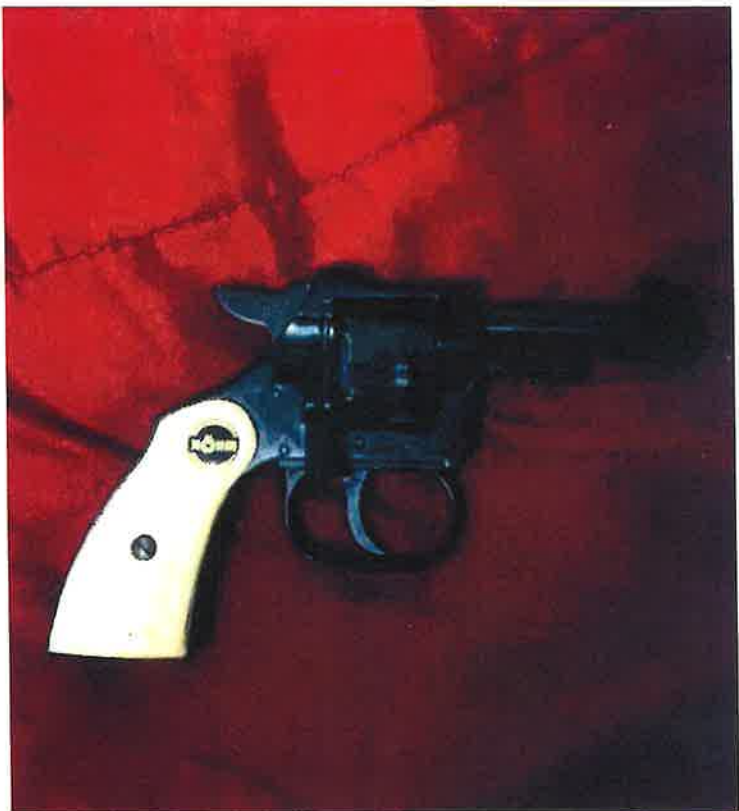
Las Comadres is an honored civic group of well respected, educated and honored women in Pueblo with collaborating efforts to improve Pueblo in any positive direction. It is important to note that the deaths of many Puebloans by gun violence is unacceptable. Any number of guns collected is of help to Pueblo's community.

Mr. Arteaga's devotion to his project has demonstrated respect of street trust into retrieving hand guns and in turn submitting the weapon (s) to the Pueblo Police Department for final disposition according to city ordinance with no questions asked.

Sincerely,

Las Comadres, Pueblo CO

Carmen Arteaga, Founder/Chairperson
719-671-4921



GOT GUNS?

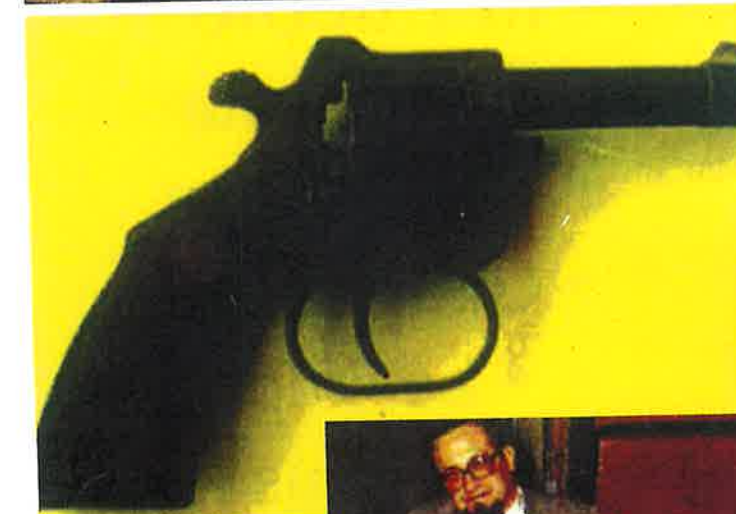
• Hand Guns Wanted •

\$20 • \$40 • \$60

• Safer Pueblo Streets •

CALL Frankie 719-565-7623

Not affiliated with any Law Enforcement



Gang Intervention/Prevention
G.A.P.P.
Gang Alternative Program of Pueblo
Since 1993

Pueblo Clean Up Projects
Murals vs Graffiti Project
Christian Youth Ministry
Needle Exchange Program

Contact:
Frankie Arteaga
Gang Intervention Worker
719-565-7623

PUEBLO ECONOMIC PEACE PROJECT

Frank Arteaga pictured with weapons
traded from Pueblo gang members for
tickets to Denver Broncos / Riders

DONATE

Car • Bus • Truck
Call (719) 565-7623

[illegible]



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 10, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Sarah Martinez, Councilor

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO THE PUEBLO DOWNTOWN ASSOCIATION IN THE AMOUNT OF \$700 TO SPONSOR THE 2023 PUEBLO LEVEE WALK ON JUNE 10, 2023 FROM 7 AM - 11 AM

SUMMARY:

Attached for consideration is a request for support of the Pueblo Downtown Association to sponsor the 2023 Pueblo Levee Walk.

PREVIOUS COUNCIL ACTION:

City Council supported this event for \$700 in 2022.

BACKGROUND:

City Council Member Sarah Martinez is requesting \$700 to support the 2023 Pueblo Levee Walk on June 10, 2023 from 7 am - 11 am. Proceeds support the downtown streetscape program, including flowers, lighting, safety, and security.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$1,000 would be paid from the Council Contingencies Account in the 2023 General Fund Budget to the Pueblo Downtown Association.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

City Council could choose not to authorize funding for this purpose.

RECOMMENDATION:

This Resolution is at the request of Council Member Sarah Martinez.

ATTACHMENTS:

1. 3.22.23 Levee Sponsor Flyer Downtown Assoc
2. 2023 Contingencies (Council) Downtown Assoc Levee Walk

RESOLUTION NO. 15205

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO THE PUEBLO DOWNTOWN ASSOCIATION IN THE AMOUNT OF \$700 TO SPONSOR THE 2023 PUEBLO LEVEE WALK ON JUNE 10, 2023 FROM 7 AM - 11 AM

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$700 from the Council Contingencies Account in the 2023 General Fund Budget is authorized to be paid to the Pueblo Downtown Association in support of the 2023 Pueblo Levee Walk on June 10, 2023.

SECTION 2.

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

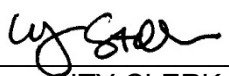
SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: April 10, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

Pueblo Downtown Association Presents Pueblo Levee WalkTM June 10, 2023 7am-11am



SPONSORSHIP OPPORTUNITIES

PROCEEDS SUPPORT DOWNTOWN STREETScape PROGRAM,
INCLUDING FLOWERS, LIGHTING, SAFETY, AND SECURITY.

\$2,500 PLATINUM

TITLE PRESENTING SPONSOR INCLUDES LOGO RECOGNITION ON ALL ADVERTISING, INCLUDING
PREMIER A-FRAME BANNER, STREET BANNER, LEVEE SIGNAGE, AND ON-SITE MILE MARKER.

\$1,200 GOLD

SUPPORTING SPONSOR INCLUDES LOGO RECOGNITION ON ALL ADVERTISING, INCLUDING PREMIER
A-FRAME BANNER, LEVEE SIGNAGE, AND ON-SITE MILE MARKER

\$700 SILVER

SUPPORTING SPONSOR INCLUDES LEVEE SIGNAGE AND ON-SITE MILE MARKER.

\$250 BRONZE

SUPPORTING SPONSOR INCLUDES ON-SITE MILE MARKER.

☐ Yes! We would like to Sponsor the 2023 Pueblo Levee WalkTM

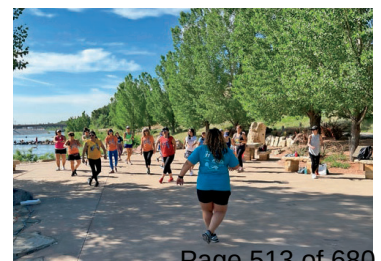
Name _____

Business Name _____

Email: _____ Phone #: _____

☐ Credit Card ☐ Make checks payable to the Pueblo Downtown Association

Sponsorship Level: ☐ Platinum \$2500 ☐ Gold \$1200
☐ Silver \$ 700 ☐ Bronze \$250



[illegible]



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: March 27, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: AN ORDINANCE APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF \$300,000 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BROWN AND CALDWELL, INC., FOR CONSULTING ENGINEERING SERVICES WITH RESPECT TO THE STOCKYARD ROAD 60- AND 66-INCH PIPELINE CIPP REHABILITATION DESIGN AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance accepts an agreement between the City of Pueblo and Brown and Caldwell, Inc. for consulting engineering services relating to the design of the 60- and 66-inch cured-in-place rehabilitation of the sanitary main.

PREVIOUS COUNCIL ACTION:

On November 12, 2018, the City Council Approved Resolution No. 14081, selecting Brown and Caldwell, Inc as the Engineer of Record for the Wastewater Treatment Department.

BACKGROUND:

The Wastewater Department is requesting design services to rehabilitate the existing 60- and 66-inch reinforced concrete sanitary sewer interceptor that serves the entire city. The existing main is in a condition where using a trenchless method by installing cured-in-place pipe, CIPP, will extend the useful life of the pipe.

FINANCIAL IMPLICATIONS:

The cost of the agreement with Brown and Caldwell to provide design services for the rehabilitation project will not exceed \$300,000. Funds are available from the Sewer User Fund and have been appropriated to Project No. WWAN02.

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

The no-action alternative delays rehabilitating the interceptor, which could increase the cost to repair. If the pipe becomes too deteriorated, CIPP will not be an option and using the traditional more expensive methods will be the only alternatives for rehabilitation.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 03-13-23 Stockyard Road Large Main CIPP Lining Design - Proposal

ORDINANCE NO. 10428

AN ORDINANCE APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF \$300,000 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BROWN AND CALDWELL, INC., FOR CONSULTING ENGINEERING SERVICES WITH RESPECT TO THE STOCKYARD ROAD 60- AND 66-INCH PIPELINE CIPP REHABILITATION DESIGN AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, the Pueblo Wastewater Department operates a Water Reclamation Facility and collection system providing municipal wastewater treatment;

WHEREAS, consulting engineering services with respect to the design required for consulting engineering services relating to the design of the 60- and 66-inch cured-in-place rehabilitation; and

WHEREAS, Brown and Caldwell is the consulting Engineer of Record and is the most qualified to serve the Pueblo Wastewater Department for such project; NOW, THEREFORE,

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

SECTION 1.

An agreement by and between the City of Pueblo, a Municipal Corporation, and Brown and Caldwell, Inc., a copy of which is attached hereto and made part hereof by reference ("Agreement"), after having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

Work Performed under the Agreement may include, but not limited to, the following items:

1. Field-verify existing conditions;
2. Design the cured-in-place pipe rehabilitation;
3. Provide project specifications for design;
4. Provide support when prequalifying contractors; and
5. Provide engineering services during construction.

SECTION 3.

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

SECTION 4.

Funds for work performed under this agreement shall be from the Sewer User Fund Project No. WWAN02.

SECTION 5.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance and the Agreement approved to implement the transactions described therein.

SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on March 27, 2023.

Final adoption of Ordinance by City Council on April 10, 2023.



President of City Council

Action by the Mayor:

☒ Approved on April 12, 2023.

☐ Disapproved on _____ based on the following objections:



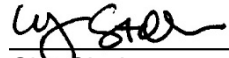
Mayor

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

APPENDIX A

Brown & Caldwell Proposal: Stockyard Road 60- and 66-inch Pipeline CIPP Rehabilitation

Prepared for
City of Pueblo
February 17, 2023



- 1 -

Project Overview

Brown and Caldwell (BC) will provide engineering services to the City of Pueblo (COP) to complete design of the Stockyard Road 60- and 66-inch wastewater pipeline, using preliminary design documents prepared by COP personnel. Bidding and construction phase services are also included. The project includes the following:

- UV-cured CIPP rehabilitation of approximately 2,955 LF of 60-inch RCP and 318 LF of 66-inch RCP.
- Rehabilitation, replacement or abandonment of seven (7) 48" diameter manholes, rehabilitation of one (1) 12.8' x 16.1' and rehabilitation of one (1) 16' x 20.5' concrete vault per COP standards.
- Design of additional manholes as necessary for the installation of the CIPP liner.

Engineering services will include:

- Preliminary (75 percent) design and final (100 percent) design.
- Bidding support including contractor pre-qualification and review of bids received for responsiveness.
- Construction phase services including engineering services during construction.

This Scope of Services includes the following tasks:

Task 100 – Project Management and Administration

Task 200 – Design Services – 75 percent and 100 percent Design

Task 300 – Bidding Phase Services

Task 400 – Engineering Services During Construction

Three attachments are also included with this Scope of Services:

Attachment 1 – Schedule of Duties, Responsibilities, and Limitations of Authority of Resident Project Representative

Attachment 2 – Project Fee

Attachment 3 – Project Schedule

City of Pueblo Responsibility

COP will provide BC all available and relevant information to aid in the design process. This includes, but is not limited to:

- AutoCAD files of the preliminary design.
- Any available CCTV inspection data of the pipelines.
- Knowledgeable staff who can discuss operational and maintenance issues.
- Flow data information to be used in bypass schematic
- As built drawings of the pipeline.



- 2 -

- Available geotechnical information in proximity to project site.
- COP will provide day-to-day oversight of construction Contractor.

Project Assumptions and Limitations

The following assumptions were made in the development of this Scope of Services:

- A preliminary design report will not be necessary for the development of this design.
- Geotechnical explorations are not needed.

Phase 100 – Project Management and Administration

Objectives

Project Management and Administration includes the following activities:

- Project Management Planning
- Project Control and Reporting
- Project Meetings and Workshops
- Project Closeout

1.1 Project Management Planning

The Project Management Plan will document the key project information required by all project team members to assist them in executing the project to meet the required objectives: on time, on budget, with high quality. The key elements of the project plan are described below:

- Scope of Services with work breakdown structure
- Project schedule updates will be provided in monthly progress reports if changes have been made and agreed upon.
- Project budgets
- Communications Plan
- Risk Management Plan
- QA/QC Plan
- Project documentation plan and file structure
- Change management process
- Health and Safety Plan for all required field work

1.2 Project Control and Reporting

Monthly invoices (assumed 18-month project duration through construction) will be prepared and submitted in an approved format. Invoices will include:

- Total contract amount
- Total charges to date
- Previous billings
- Outstanding balance



- Current amount remaining
- Total amount due

This task also includes periodic project review by BC management to assure the project is meeting critical success factors, is on schedule, and is within budget.

1.3 Project Meetings

BC will provide a regular forum for the receipt, exchange, response, and documentation of project planning, design, and management related issues and decisions during the project.

This task includes:

- Project Kickoff Meeting. Assume this meeting to be in person. A site visit to be conducted following the meeting.
- Monthly Update Meetings – PM will meet with COP to review project status, schedule, contract issues, and other project management related issues. Assume meetings to be virtual (up to 18 meetings, 1 hour each).
 - BC will combine these meetings with the Submittal Workshop or Site visits, when available
- Deliverable workshop (75 percent).

1.4 Project Close-Out

During project close-out, BC will submit all final invoices to COP and consolidate and archive all project files.

Deliverables

The following deliverables will be provided as part of this phase:

- Project Management Plan
- Monthly invoices, with update summaries
- Meeting agendas, presentation materials, and minutes

Assumptions

- Project duration is 6-months design and 12-months construction.

Phase 200 –Preliminary Design Services

2.1 Topographic Survey

Topographical survey to be provided by a subconsultant to BC to include. Subconsultant shall be professionally licensed surveyor in state of Colorado. The survey is to provide 1-foot contours, necessary control points for staking the project area and be in the following coordinate system:

- Colorado State Plane South Zone, NAD 1983 and USGS NVD 1929, feet



Utility locations shall be provided per ASCE 38-02 and SB 18-167; SUE level B. The survey shall be stamped by a professional surveyor in the state of Colorado.

Boundary survey not included as part of this scope of services.

Easement exhibits and legal descriptions not included as part of this scope of services.

2.2 Permitting and Coordination

Permitting and/or coordination through local, county, and state agencies is anticipated for design locations associated with this scope of work. BC will provide coordination and assistance with the permit planning and design-phase coordination of permits. Anticipated permits and coordination include the following agencies:

- City of Pueblo Floodplain Management
- City of Pueblo Public Works
- Pueblo County Parks and Recreation
- Colorado Department of Transportation

No federal permitting or coordination is included in this scope of services.

2.3 75 Percent Design

The intent of the detailed design is to prepare a biddable set of plans, technical specifications, and Contract Documents for the Stockyard Road 60- and 66-inch wastewater pipeline. The deliverables associated with this task will be final contract documents, suitable for obtaining bids from prequalified contractors.

BC will review available record document information, including CCTV data, to confirm COP's design assumptions.

BC will provide the following as part of the design packages:

1. Technical Specifications: BC will use COP Division 0 specifications.
2. Plans: Plans will be prepared at a 40-horizontal scale for review, bidding, and construction. Plans (no profiles) will be prepared to show the surface and topographic features of the streets and rights-of-way using aerial photography. Plans will be used to determine the horizontal location of the pipe based on COP provided manhole locations. Laterals, if any, will be identified during review of CCTV information.
Details: Pipe rehabilitation details and schedules, manhole and pipeline replacement, bypass details, stormwater BMP details (if necessary) and typical ROW requirement details (pavement, patching, surface restoration) will be included in the plans and specifications.

It is envisioned the project will include the following drawings:

- Cover Sheet
- Sheet Index / Vicinity Map
- General Notes Sheet
- Schedules / Detail Sheets



- Bypass Schematic
- Plan Sheets
- Detail Sheets

BC will conduct an internal QA/QC review of materials to be submitted to COP prior to submission.

Deliverables

The following deliverables will be provided:

- Technical specifications (BC Format) – provided electronic only, prior to Workshop.
- Drawings. BC will provide an electronic copy prior to Workshop and will provide five (5) review copies as part of Workshop review session.

75% Design Review Workshop

BC will organize and attend one (1) Workshop Review Meeting with COP to review the 75 percent design. The workshop will be held following the draft 75 percent submittal and COP review period (10 working days). This meeting is expected to be held virtually and last up to 4 hours.

2.4 100 Percent Design

Objectives

- 75 percent review comments addressed.
- Complete final design and provide bidding documents.
- BC will conduct an internal QA/QC review of materials to be submitted to COP prior to submission.

Deliverables

The following deliverables will be provided as part of this phase:

- 100 Percent Submittal – A complete single bound set of specifications (BC Format) along with the set of 100 percent Final Design (Bid) drawings. BC will provide an electronic copy of this deliverable.

2.5 Bid Document Preparation

BC will assemble and reproduce the bid ready contract documents to be issued by COP during the bidding phase.

Objectives

- 100 percent comments are addressed.
- Provide Colorado licensed Professional Engineer stamped design documents.



Phase 300 – Bidding Phase Services

BC will perform the following Bidding Phase Services:

3.1 Contractor Pre-Qualification

BC will prepare Request for Qualification (RFQ) documents for use in soliciting Statement of Qualifications (SOQs) from interested specialty pipeline rehabilitation contractors. BC will respond to Contractors' questions during the qualification process. After submission of the SOQs, BC will review the documents submitted by each contractor for compliance with the stated requirements. COP will select and notify qualified contractors who will then be invited to bid on the project.

Deliverables

BC will provide the following deliverables:

- Contractor prequalification RFQ Document (draft and final).
- Summary review of Contractor submittals and prequalification recommendations.

3.2 Bid Period Services

3.2.1 Solicitation

BC will assist COP in advertising for bids from construction contractors to construct the proposed project by providing an appropriate advertisement for COP use (COP will provide electronic bidding documents).

BC will also prepare for and lead a Pre-Bid Conference in conjunction with COP Staff. BC will prepare an agenda for the pre-bid conference. The notice for the pre-bid conference will be included in the Contract Documents. Following the conference, BC will prepare notes of the meeting. The meeting notes will be forwarded to COP for review and distribution to attendees.

3.2.2 Bidding Documents

Bidding documents will be obtained by the bidding Contractors from the COP website.

3.2.3 Bidder Questions

BC will respond to bidders' questions and provide overall support to COP during the bidding period. All questions will be documented and answered in addenda. All responses will be routed through COP for review and approval.

3.2.4 Addenda

BC will prepare not more than two addenda, as required, to modify or amend the bidding documents as appropriate during the bidding period. A copy of the addenda will be issued to the COP for review and approval. BC assumes not more than 20 hours will be required to prepare each addendum.

3.2.5 Bid Opening

Bids will be received by COP. BC will not attend bid opening.



3.2.6 Bidder Evaluation

Review the submitted bids. BC will assist the COP in summarizing results of the review and making a recommendation regarding acceptance of the bid and award of the contract.

3.2.7 Conformed Drawings

Incorporate changes made by addenda and produce an electronic reproducible (pdf) final set of conformed contract documents.

Phase 400 – Engineering Services During Construction

BC will provide engineering services during construction for the Stockyard Road 60- and 66-inch pipeline rehabilitation project.

4.1 Activities

BC will perform the following engineering services during construction:

4.1.1 Shop Drawing Submittals

Review shop drawings submitted by the Contractor for conformance with the design intent of the contract documents and indicate to the Contractor the acceptability of the submittal. It is assumed that twenty-four (24) shop drawings will be reviewed and no more than (2) reviews per submittal will be required. A total of 4 hours has been budgeted for review of the initial submittal and 2 hours for potential re-submittals (Assumed for half of submittals). BC will maintain a shop drawing submittal log.

4.1.2 Requests for Information

Respond up to ten (10) Requests for Information (RFI). Forty (40) hours have been allotted for this task. BC will maintain an RFI log.

4.1.3 Change Orders

Provide assistance, where requested, on reviewing up to three (3) proposed change orders. Assistance can be in the form of collaboration, coordination and minor design alterations, Assist with determination of conformance with the original design intent and cost effectiveness. Forty (40) hours have been allotted for this task.

4.1.4 Progress Meetings

BC will prepare for and lead up to twelve (12) monthly construction meetings (virtually) to facilitate communication among the construction team members during the construction period. BC will also lead an in-person pre-construction meeting.

It is anticipated that two personnel representing BC will attend the meetings including the Project Manager and Construction Engineer.

4.1.5 On-Site (Observation) Services

On-site observation services during construction will include periodic observations at key project milestones (ie, UV-CIPP liner installation, MH coating). A total of no more than sixteen (16) trips/days to



the site are assumed (budgeted 8 hours per visit). COP inspectors will handle daily construction observation and BC will only be on-site on an as-needed basis.

4.1.6 Record Drawings

Upon completion of construction, BC will prepare record drawings, to reflect changes made during construction as recorded by the contractor. These drawings will be marked “Record Drawings” and one (1) electronic .PDF set and one (1) electronic set in a format acceptable to the COP’s current AutoCad system will be submitted to COP.

Included as part of the Record Drawing task is the review of post-construction CCTV.

Task 500 – Owner’s Contingency

Upon written authorization by COP and mutual agreement on scope and fee, BC shall provide additional services as required by the project. Contingency services may be required due to unavoidable schedule delays, Contractor performance issues, or other items as requested by COP.



Attachment 1: Schedule of Duties, Responsibilities, and Limitations of Authority of Resident Project Representative

Schedule of Duties, Responsibilities, and Limitations of Authority of Resident Project Representative

The following duties, responsibilities, and limitations of authority may be incorporated in the Agreement for a Specific Project:

D.1.01 Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative ("RPR"), assistants, and other field staff to assist Engineer in observing progress and quality of the Work. The RPR, assistants, and other field staff under this Exhibit D will provide part-time representation.
- B. Through such additional observations of Contractor's work in progress and field checks of materials and equipment by the RPR and assistants, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to Contractor's work in progress, for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's performing and furnishing the Work, or responsibility for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents. In addition, the specific modifications set forth in Task 7.2.14 of Appendix A as incorporated in the Agreement are applicable.
- C. The duties and responsibilities of the RPR are limited to those of Engineer in the Agreement with the Owner and in the Contract Documents, and are further limited and described as follows:
 1. *General.* RPR is Engineer's agent at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.
 - RPR's dealings in matters pertaining to a Contractor's work in progress shall in general be with Engineer and Contractor, keeping Owner advised as necessary to facilitate the work.
 - RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor.
 - RPR shall generally communicate with Owner with the knowledge of and under the direction of Engineer.
 2. *Schedules.* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by a Contractor and consult with Engineer concerning acceptability.

3. *Conferences and Meetings.* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
4. *Liaison*
 - a. Serve as Engineer's liaison with Contractor, working principally through Contractor's superintendent, and assist in providing information regarding the intent of the Contract Documents.
 - b. As requested by Engineer. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
 - d. In the interest of preserving the proper channels of communication, advise Engineer of any direct communication between Owner and Contractor.
5. *Interpretation of Contract Documents.* Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
6. *Shop Drawings and Samples*
 - a. Record date of receipt of Samples and approved Shop Drawings.
 - b. Receive Samples which are furnished at the Specific Project Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.
7. *Modifications.* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
8. *Review of Work and Rejection of Defective Work*
 - a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Specific Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or

rejected or should be uncovered for observation, or requires special testing, inspection or approval.

- c. Modifications: Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report them with recommendations to Engineer.

9. *Inspections, Tests, and System Start-ups*

- a. Consult with Engineer in advance of scheduled major inspections, tests, and systems start-ups of important phases of the Work.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Accompany Owner and visiting inspectors representing public or other agencies having jurisdiction over a Specific Project, record the results of these inspections, and report to Engineer.

10. *Records*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Specific Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Record names, addresses, fax numbers, e-mail addresses, web site locations and telephone numbers of all Contractors, subcontractors, and major suppliers of materials and equipment.
- d. Maintain records for use in preparing project documentation.
- e. Upon completion of the Work, furnish original set of all RPR Specific Project documentation to Engineer.

11. *Reports*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.

- b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and Owner copies of all inspection, test, and system startup reports.
- d. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Constituent of Concern..

12. *Payment Requests*

- a. Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

13. *Certificates, Operation and Maintenance Manuals*

- a. During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by a Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

14. *Completion*

- a. Participate in a Substantial Completion inspection, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.
- b. Participate in a final inspection in the company of Engineer, Owner, and Contractor and prepare a final list of items to be completed and deficiencies to be remedied.
- c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.

D. Resident Project Representative shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in the Agreement or the Contract Documents.
3. Undertake any of the responsibilities of a Contractor, subcontractors, suppliers, or a Contractor's superintendent.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Contractor's work unless such advice or directions are specifically required by the Contract Documents.
5. Advise on, issue directions regarding, or assume control over safety practices, precautions and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy a Specific Project in whole or in part.

Attachment 2: Fee Schedule

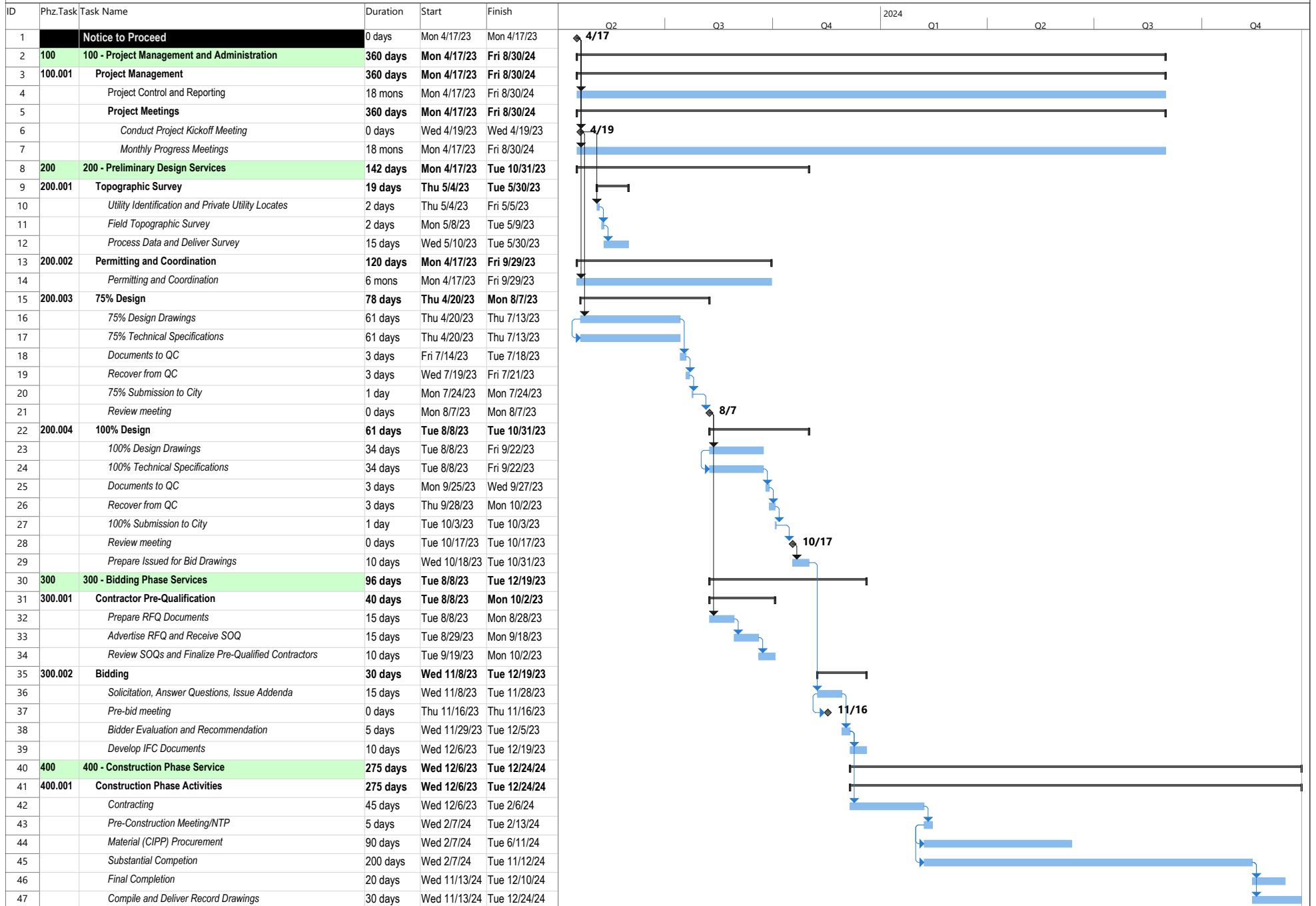
Pueblo, City Dept of Wastewtr (CO) -- Stockyard Road CIPP																														
		Wilson, Chandler	Lambert, Kell A	Davies, Robert M	Keil, Kevin A	Davidse, David	Dunn, Haley	Catalano, Lawrence F	Poppe, Mark A	Agstler, William P	Dummer, Catherine A				Other - 1		Airfare	Lodging and Food	Other Travel		UP 1		Manhard Consulting							
Phase	Phase Description	PM	PA									Total Labor Hours	Total Labor Effort	APC							Total ODCs		Total Unit Pricing Effort	Hours	Cost	Total Sub Cost	Total Expense Cost	Total Expense Effort	Total Effort	
		\$220.00	\$120.00	\$235.00	\$235.00	\$140.00	\$140.00	\$235.00	\$235.00	\$235.00	\$205.00																			
100	PM and Admin	138	126	8	18	0	24	0	0	0	0	314	54,950	0	0	0	0	0	550	550	0	0		0	0	550	605	55,555		
001	PM	72	108	0	18	0	0	0	0	0	0	198	33,030	0	0	0	0	0	0	0	0	0		0	0	0	0	0	33,030	
002	Project Control & Reporting	18	18	0	0	0	0	0	0	0	0	36	6,120	0	0	0	0	0	0	0	0				0	0	0	0	6,120	
003	Project Meetings	48	0	8	0	0	24	0	0	0	0	80	15,800	0	0	0	0	0	550	550						0	0	550	605	16,405
200	Design Services	78	4	70	0	192	184	16	0	0	0	544	90,490	0	0	0	0	0	404	404	0	0		14,100	14,100	14,504	15,954	106,444		
001	Topographic Survey	4	4	2	0	4	0	0	0	0	0	14	2,390	0	0	0	0	0	0	0	0				14,100	14,100	14,100	15,510	17,900	
002	Permitting & Coordination	8	0	4	0	0	24	0	0	0	0	36	6,060	0	0	0	0	0	0	0	0				0	0	0	0	6,060	
003	75% Design	48	0	44	0	120	112	8	0	0	0	332	55,260	0	0	0	0	0	202	202						0	0	202	222	55,482
004	100% Design	16	0	16	0	52	40	8	0	0	0	132	22,040	0	0	0	0	0	202	202						0	0	202	222	22,262
005	Cost Estimating	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0				0	0	0	0	0	
006	Finalize Bid Doc	2	0	4	0	16	8	0	0	0	0	30	4,740	0	0	0	0	0	0	0	0				0	0	0	0	4,740	
300	Bidding Phase Services	16	0	56	0	24	60	0	0	0	0	156	28,440	0	0	0	0	0	183	183	0	0		0	0	183	202	28,642		
001	Contractor Pre-Qual.	8	0	12	0	0	8	0	0	0	0	28	5,700	0	0	0	0	0	0	0	0				0	0	0	0	5,700	
002	Response to Questions	2	0	6	0	0	8	0	0	0	0	16	2,970	0	0	0	0	0	0	0	0				0	0	0	0	2,970	
003	Prebid Conference	0	0	12	0	0	12	0	0	0	0	24	4,500	0	0	0	0	0	183	183						0	0	183	202	4,702
004	Addenda	2	0	18	0	0	20	0	0	0	0	40	7,470	0	0	0	0	0	0	0	0				0	0	0	0	7,470	
005	Bid Review and Tab	0	0	4	0	0	4	0	0	0	0	8	1,500	0	0	0	0	0	0	0	0				0	0	0	0	1,500	
006	Conformed Documents	4	0	4	0	24	8	0	0	0	0	40	6,300	0	0	0	0	0	0	0	0				0	0	0	0	6,300	
400	Eng. Services During Co	98	0	38	0	24	200	0	48	0	0	408	73,130	0	0	600	1,500	1,100	3,200	0	0		0	0	3,200	3,520	76,650			
001	Shop Dwg Submittals	32	0	20	0	0	68	0	0	0	0	120	21,260	0	0	0	0	0	0	0	0				0	0	0	0	21,260	
002	RFI's	8	0	8	0	0	24	0	0	0	0	40	7,000	0	0	0	0	0	0	0	0				0	0	0	0	7,000	
003	Change Orders	8	0	8	0	0	24	0	0	0	0	40	7,000	0	0	0	0	0	0	0	0				0	0	0	0	7,000	
004	Progress Mtgs	32	0	0	0	0	20	0	0	0	0	52	9,840	0	0	0	0	0	0	0	0				0	0	0	0	9,840	
005	On-Site (Inspection) Ser.	16	0	0	0	0	32	0	48	0	0	96	19,280	0	0	600	1,500	1,100	3,200						0	0	3,200	3,520	22,800	
006	Record Drawings	2	0	2	0	24	32	0	0	0	0	60	8,750	0	0	0	0	0	0	0	0				0	0	0	0	8,750	
500	Owner's Contingency	0	0	0	0	0	0	0	0	0	0	0	0	0	29,735	0	0	0	0	29,735	0	0		0	0	29,735	32,708	32,708		
****	Default Task	0	0	0	0	0	0	0	0	0	0	0	0	0	29,735	0	0	0	0	29,735				0	0	29,735	32,708	32,708		
GRAND TOTAL		330	130	172	18	240	468	16	48	0	0	1,422	247,010	0	29,735	600	1,500	2,238	34,073	0	0		14,100	14,100	48,173	52,990	300,000			

Attachment 3: Project Schedule

PROJECT SCHEDULE

City of Pueblo

Stockyard Road CIPP Project





**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: March 27, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND FINANCIAL CONSULTING SOLUTIONS GROUP, INC., D.B.A. FCS GROUP, TO PROVIDE UTILITY RATE CONSULTING SERVICES FOR THE PUEBLO WASTEWATER DEPARTMENT AND NAMING SAID COMPANY AS THE RATE CONSULTANT OF RECORD

SUMMARY:

This Ordinance approves and authorizes the Mayor to sign the contract between Financial Consulting Solutions Group, Inc. DBA FCS Group and the City of Pueblo to provide financial consulting services, such as, rate studies, and financial capacity reports for the Wastewater Department.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

As an enterprise of the City of Pueblo, the Wastewater Department operates the James R. Dilorio Water Reclamation Facility and the associated sanitary sewer collection system. Operating and maintaining the infrastructure of these facilities entails increasing costs and, as an enterprise, the Wastewater Department is obligated to collect sufficient funds through its rates and fees to pay for its operations. Section 16-6-26 of the Pueblo Municipal Code requires a biennial review of the sanitary sewer rates and fees. The attached contract establishes a long-term agreement between the City and Financial Consulting Solutions Group, Inc. DBA FCS Group to provide professional utility rate consulting services to fulfill these obligations.

Qualification statements were received from two firms. Financial Consulting Solutions Group, Inc. DBA FCS Group was judged to be the firm best qualified to provide the required services

FINANCIAL IMPLICATIONS:

Funding for the services will come from Professional Service's budget.

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

Not applicable. The Municipal Code requires that the sanitary sewer rates be reviewed no less often than every two years. Financial Consulting Solutions Group, Inc. DBA FCS Group was selected as the City's Wastewater Rate Consultant of Record through a competitive bid process.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 03-27-23 23-030 FCS Wastewater Rate Consultant - Master Contract

ORDINANCE NO. 10429

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND FINANCIAL CONSULTING SOLUTIONS GROUP, INC., D.B.A. FCS GROUP, TO PROVIDE UTILITY RATE CONSULTING SERVICES FOR THE PUEBLO WASTEWATER DEPARTMENT AND NAMING SAID COMPANY AS THE RATE CONSULTANT OF RECORD

WHEREAS, Statements of Qualifications for Utility Rate Consulting services were requested and received; and

WHEREAS, a committee was formed to evaluate these qualifications; and

WHEREAS, the committee selected Financial Consulting Solutions Group, Inc., D.B.A. FCS Group, as the most qualified to serve the Pueblo Wastewater Department; NOW, THEREFORE,

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

SECTION 1.

The contract between Pueblo, a Municipal Corporation and Financial Consulting Solutions Group, Inc., D.B.A. FCS Group, 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 contract 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 contract 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 March 27, 2023.

Final adoption of Ordinance by City Council on April 10, 2023.



President of City Council

Action by the Mayor:

☒ Approved on April 12, 2023.

☐ 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



**MASTER CONTRACT FOR PROFESSIONAL CONSULTING
SERVICES BY AND BETWEEN CITY OF PUEBLO AND
FINANCIAL CONSULTING SOLUTIONS GROUP, INC. DBA FCS GROUP**

23-030

WASTEWATER RATE CONSULTANT OF RECORD

MASTER CONTRACT FOR PROFESSIONAL CONSULTING SERVICES BY AND BETWEEN CITY OF PUEBLO AND FINANCIAL CONSULTING SOLUTIONS GROUP, INC. DBA FCS GROUP

THIS CONTRACT ("Contract") made and entered this ____ day of _____, 2023 by and between the City of Pueblo, a Municipal Corporation (hereinafter referred to as "City") and Financial Consulting Solutions Group, Inc. dba FCS Group, (hereinafter referred to as "Consultant"), for Consultant to render certain financial, rate, review, reporting, and related services for City in connection with Bid 23-030 Wastewater Rate Consultant of Record, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

1. RECITALS

- A. The City solicited competitive proposals for Bid 23-030 Wastewater Rate Consultant of Record to provide professional services to include documentation, reporting, and filing of documents for the wastewater annual rate review (hereinafter referred to as the "RFQ").
- B. In response to the RFQ, Consultant submitted its proposal (hereinafter referred to as "Response").
- C. City has evaluated all Responses submitted and selected Consultant to perform Rate Consultant for various anticipated projects.

NOW, THEREFORE, in consideration of the foregoing Recitals and mutual covenants, City and Consultant agree as follows:

2. ENGAGEMENT

- A. City engages Consultant and Consultant accepts such engagement to perform the services set forth in this Contract and the standard form of Agreement for Professional Services ("Consultant Agreement Form"), execution of which will be required for each Project as may be directed by the City. A copy of the Agreement is attached hereto and labelled respectively as Exhibit A.
- B. Anticipated Projects (hereinafter referred to as the "Projects") may include the Scope of Services for each Agreement for any Project and shall be consistent with and meet following requirements:
 - 1. Review and update sanitary sewer rates and fees as required by Section 16-7-9 of the Municipal Code
 - 2. Assist City staff in developing a realistic and workable Capital Improvement Program (CIP).
 - 3. Identify projects necessary to maintain and/or expand the capacity of wastewater collection and treatment facilities.

4. Assist City staff in developing recommendations for financing infrastructure improvements and pretreatment program requirements.
 5. Assist City staff in presenting recommendations on wastewater rates to City Council
 6. Support the City in securing financing for required construction by providing engineering cost estimates and technical information for loan or bond documentation.
 7. Support the City in developing Financial Capacity Studies.
 8. Complete other projects as required related to rates and fees for the wastewater utility.
- C. City may, or may not, in its sole discretion undertake any of the Projects. Upon written direction from City requesting Consultant to undertake a project, the Consultant shall prepare a specific Scope of Service, Fee Schedule (based upon Schedule 2 of the Contract), and Work Schedule necessary to complete the project.
- D. After mutual approval of the Scope of Service, Fee Schedule, maximum compensation and Work Schedule, the City will incorporate such agreed upon terms into the Approved Form of Agreement which shall be executed by Consultant.
- E. After execution of such Agreement by Consultant, City will submit same to City Council of City for approval and any such Agreement shall be subject to and conditioned upon City Council approval.
- F. In addition to the scope of work set forth above, City may request services on an as needed basis.
- G. No minimum amount of work is guaranteed under this Contract. City reserves the right to engage and/or contract with other parties to perform services which otherwise might be requested under this Contract.

3. TERM

- A. This Contract is for a term of three (3) years commencing the date first listed above. The term of this Contract may be extended for two (2) additional one (1) year options upon mutual agreement of City and Consultant.
- B. This Contract may be terminated by the City at any time, without cause or liability, upon thirty (30) days prior written notice given to the Consultant specifying the date of termination, provided, however, that the termination of this Contract shall not terminate or be deemed to terminate any existing agreements executed by and between the parties pursuant to Section 1 of this Contract.

4. GENERAL COVENANTS

Consultant covenants that it is:

- A. Competent and qualified to perform; and will perform the services and work contemplated by this Contract and the Agreement(s) in a professional manner to the satisfaction of the City.
- B. Familiar with the requirements stated in the RFQ with respect to the services and work contemplated by this Contract and the Agreement(s) and will perform such services and work in compliance therewith.

5. SPECIFIC COVENANTS

Consultant covenants that, during the performance of this Contract and any Agreements for a specified Project, Consultant will:

- A. Comply with all federal statutes and regulations relating to nondiscrimination in federally assisted programs.
- B. Comply with all other laws, regulations, and requirements for applicable Federal, State, local , and grant funded Projects.

6. RECORDS AND DATABASE

Consultant shall maintain a cost accounting system acceptable to City. The City shall have access to any books, documents, papers, and records of the Consultant that are directly pertinent or relate to this Contract or any Agreements for a specified Project, for the audit purposes, examination, inspection, excerpts, and transcription. The Consultant shall maintain such records for three (3) years after City makes final payments to Consultant and all pending matters are closed. Consultant shall prepare and maintain an electronic database (compatible with AutoCAD) that accurately represents all existing and future civil infrastructure for all Projects completed under this Contract and any Agreements for a specified Project.

7. RIGHTS TO INVENTIONS

Plans, drawings, designs, specifications, inventions, reports and all other documents and materials generated under this Contract or any Agreements for a specified Project shall become the sole property of City, subject to applicable federal grant requirements, and City shall be vested with all rights therein of whatever kind and however created, whether by common law, statute, or equity. Consultant shall retain sole ownership of pre-existing proprietary property, including but not limited to, computer programs, software, diagrams, and models.

8. INSURANCE AND INDEMNITY

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

- C. Consultant shall furnish to City a certificate or certificates of insurance showing compliance with this Section. Consultant shall obtain a special endorsement from its insurance carrier that provides that the insurance shall not be changed or cancelled until ten (10) days after written notice has been given to City and provide a copy of such endorsement to City. Consultant shall immediately notify City of any substantial change in, or cancellation, or non-renewal of any such insurance.
- D. 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, its employees, subcontractors, and consultants.

9. CERTIFICATIONS

- A. Neither Consultant nor any of its principals are presently, or at the time of execution of any Agreements for a specified Project, debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract or in any such subsequent Agreements for a specified Project by any entity or agency. Consultant will include this clause in all lower tier transactions, solicitations, proposals, contracts, subcontracts, and agreements.
- B. Consultant is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representatives and that it will comply with the Department of Transportation trade restriction regulations 49 CFR Part 30. Consultant will include this clause and other clauses required by said trade restriction regulations in all lower tier transactions, solicitations, proposals, contracts, subcontracts, and agreements.

10. NOTICES

Any notice required or permitted by this Contract shall be in writing and may be served personally or mailed by first-class mail, postage prepaid, addressed to the party at its address shown on the first page hereof, and if to the City, a copy of thereof shall be given to City of Pueblo, Attn: Andra Ahrens, Director, 1300 S. Queens Ave., Pueblo, CO 81001 or Consultant at Financial Consulting Solutions Group, Inc. dba FCS Group, Attention: John Ghilarducci, President, 7525 166th Ave NE, Ste D-215, Redmond, WA 98052. Either party may change addresses upon written notice given to the other party specifying the changed address.

11. FINANCIAL OBLIGATIONS OF CITY

All financial obligations of the City under this Contract and any Agreements for a specified Project in any subsequent fiscal year of the City are subject to, and contingent upon, funds being specifically budgeted and appropriated for such purposes (Projects). This Contract 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 of Pueblo, contrary to Article X, § 20 Colorado Constitution or any other constitutional, statutory, or charter debt

limitation. Notwithstanding any other provision of this Contract and any Agreements for a specified Project, with respect to any financial obligation of the City which may arise under this Contract in any fiscal year after 2021, 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 or breach of this Contract or any Agreements for a specified Project by the City, and the City may terminate this Contract or any Agreements for a specified Project without liability.

12. MISCELLANEOUS

- A. This Contract shall be governed and interpreted in accordance with the laws of the State of Colorado. In the event of any litigation arising out of this Contract, the court shall award to the prevailing party its costs and reasonable attorney fees. Venue for any such litigation shall be Pueblo County, Colorado.
- B. This Contract contains the entire agreement between the City and Consultant and incorporates all prior written and oral understandings and agreements between the parties.
- C. This Contract may only be modified or amended by written instrument signed by both City and Consultant.
- D. This Contract shall be binding upon and inure to the benefit of City and Consultant and their respective successors and assigns, provided, however, Consultant shall not assign this Contract, Agreements for a specific Project, or any interest herein without the prior written consent of City.

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

14. 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 Contract. The Consultant shall fill out the Colorado PERA Questionnaire and submit the completed form to City as part of the signed Contract.

15. ELECTRONIC SIGNATURE

This Contract 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 contract, (ii) a valid and binding contract and fully admissible under state and federal law, and (iii) enforceable in accordance with its terms.

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

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

CITY OF PUEBLO, A MUNICIPAL CORPORATION

FCS GROUP

By _____
Naomi Hedden, Director of Purchasing

By _____
John Ghilarducci, President

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 - Identification of Personnel, Subcontractors, and Task Responsibility
Exhibit A – Sample Agreement for Professional Services
Additional Information for Contract

SCHEDULE 1

Scope of Services

Excerpt from Request for Qualifications, Section 3.3

In general, the Consultant shall perform or assist the Wastewater Department with the following:

- A. Review and update sanitary sewer rates and fees as required by Section 16-7-9 of the Municipal Code
- B. Assist City staff in developing a realistic and workable Capital Improvement Program (CIP).
 - 1. Identify projects necessary to maintain and/or expand the capacity of wastewater collection and treatment facilities.
 - 2. Assist City staff in developing recommendations for financing infrastructure improvements and pretreatment program requirements.
 - 3. Assist City staff in presenting recommendations on wastewater rates to City Council
- C. Support the City in securing financing for required construction by providing engineering cost estimates and technical information for loan or bond documentation.
- D. Complete other projects as required related to rates and fees for the wastewater utility.

Note: The current rate study and financial plan are available for review at the Wastewater Department's administrative office.

SCHEDULE 2

Fee Schedule

Excerpt from Proposer's Submittal dated February 28, 2023

FCS GROUP
2023 STANDARD FEE SCHEDULE
Effective December 5, 2022

LABOR

<u>POSITION/TITLE</u>		<u>BILLING RATE</u>
Principals	Standard Rate	\$320
Project Managers	Standard Rate	\$230
Consultants	Standard Rate	\$190
Analysts	Standard Rate	\$160
<u>Administrative and Technical Support</u>		
Public Relations		\$170
Technical Writer/Graphic Artist		\$145
Administrative Support		\$ 95

DIRECT EXPENSES

Major direct expenses, such as travel, mileage, and lodging, will be charged at cost. Other expenses will not be directly charged unless by mutual agreement of the client and FCS GROUP and specific terms will be established in advance prior to expenditure and billing.

SUBCONSULTANTS

When applicable, subconsultants will be charged at invoiced cost plus 10%.

SCHEDULE 3

Identification of Personnel, Subcontractors, and Task Responsibility

Excerpt from Proposer's Submittal dated February 28, 2023, Pages 9 - 10

Key Personnel

FCS GROUP'S STAFF INCLUDES TECHNICAL PROFESSIONALS WITH BACKGROUNDS IN PUBLIC ADMINISTRATION, MANAGEMENT, FINANCE, ACCOUNTING, ECONOMICS, AND ENGINEERING DISCIPLINES. THESE ANALYTICALLY-FOCUSED PERSPECTIVES EQUIP US TO ADDRESS UTILITY FINANCE AND PUBLIC RESERVE FUND CHALLENGES WHILE MAINTAINING FIXED ATTENTION ON ORGANIZATIONAL SENSITIVITIES, POLICY DRIVERS, AND STAKEHOLDER PRIORITIES

FCS GROUP is promoting a small, focused team who will be available and committed to work on this engagement for its duration. Jason Mumm, principal-in-charge will anchor your team as a nationally recognized policy and rate development expert. He will be supported by Melanie Hobart (project manager), Colton Richard (project consultant), and Caleb Hansen (analyst). All four are located in the Boulder office, where the work will be completed. With a staff that includes over 30 utility rate experts, FCS GROUP maintains the necessary depth, breadth, and capacity to deliver this project on time and within budget. Our project organization is summarized below. A summary of each individual's experience is included on the following page with resumes included in the Appendix A. No subconsultants will be used for this project.

Jason Mumm PRINCIPAL-IN-CHARGE

Jason Mumm is an FCS GROUP principal with 27 years of experience providing financial and rate development services in various capacities for water, sewer, reclaimed water, stormwater, and solid waste utilities. He is a nationally recognized expert in utility rates, fees, and charges and has helped author significant portions of the American Water Works Association's guidelines for water utility rates. He is a Chair of the AWWA Rates and Charges Committee, and is actively involved in the Water Environment Federation. His entire 27-year professional career has been focused in Colorado where he is the longest-tenured consultant in the field of municipal utility rates and charges. Jason's extensive regional experience includes: multiple rate study projects, but the following are the larger regional wastewater operations from his lengthy resume.

- Pueblo, CO – Stormwater Rate Study
- Loveland, CO – Water and Wastewater Rate Studies and Financial Consulting
- Aurora, CO – Water and Wastewater Rate Studies and Financial Consulting
- South Platte Renew, CO – Wastewater Wholesale Agreements
- Metro Water Recovery, CO – Sewer Connection Charges
- Cheyenne, WY – Water and Sewer Cost of Service Analysis and Rate Study
- Boise, ID – Wastewater Cost-of-Service study

As principal-in-charge, Jason will be responsible for contract negotiation, technical direction, principal review, the commitment of resources, quality assurance, and deliverables.

Melanie Hobart PROJECT MANAGER

Melanie Hobart is an FCS GROUP project manager with 15 years of public sector and consulting experience. She has performed water, sewer, electric, and stormwater utility rate studies and forecasting throughout the U.S. Melanie's area of expertise is in policy and regulatory analyses. Her project work has included detailed customer statistics analysis to develop monthly use profiles and inform the development of cost-of-service allocation factors. Melanie's project experience includes:

- Pueblo, CO – Stormwater Rate Study
- Aurora, CO – Water Rate Studies and Financial Consulting
- Loveland, CO – Water and Wastewater Rate Studies and Financial Consulting
- Telluride, CO – Sewer Financial Analysis and Rate Study
- Cheyenne, WY – Water and Wastewater Rate Study
- Ankeny, IA – Water and Sewer Rate Study

Melanie will play a key role as the City's main contact. She will manage the technical analyses and direct staff activities on a day-to-day basis including preparation of draft deliverables. She will also manage the budget and schedule.

Colton Richard PROJECT CONSULTANT

Colton Richard is an FCS GROUP project consultant with experience in data collection, research, spreadsheet modeling, and analysis for economic studies and rate development for water, sewer, and stormwater utilities. He has seven years' experience in water policy and offers a unique qualitative and quantitative set of skills in preparing analytical models and developing financial strategies to support utility operations. Colton's project experience includes:

- Pueblo, CO – Stormwater Rate Study
- Aurora, CO – Water Rate Studies and Financial Consulting
- Loveland, CO – Water and Wastewater Rate Studies and Financial Consulting
- Cheyenne, WY – Water and Wastewater Rate Study

Colton will be responsible for data management, technical analysis, rate modeling, and drafting project deliverables.

Caleb Hansen ANALYST

Caleb Hansen is an FCS GROUP analyst specializing in policy analysis, data modeling, statistics, and rate development for water, sewer, stormwater, and solid waste utilities. His previous experience includes budgeting, policy management, and technical writing. Caleb's project experience includes:

- Pueblo, CO – Stormwater Rate Study
- Cheyenne, WY – Water and Wastewater Rate Study
- Loveland, CO – Water and Wastewater Rate Studies and Financial Consulting

Caleb will be responsible for data management, technical analysis and rate modeling.

SAMPLE AGREEMENT FOR PROFESSIONAL SERVICES BY AND BETWEEN CITY OF PUEBLO AND [LEGAL NAME OF VENDOR]

THIS AGREEMENT ("Agreement") made and entered this _____ day, _____, 2023 by and between the City of Pueblo, a Municipal Corporation (hereinafter referred to as "City") and [Legal name of vendor and business license registration] _____, (hereinafter referred to as "Consultant") a professional [type of consultant] _____ firm, for Consultant to render certain professional [type of service to be provided] _____ and related services for Owner in connection with Bid _____, 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 the professional planning and consulting services for the Project described in more detail in Schedule 1 attached hereto and incorporated herein by reference (the "Scope of Services"). Such services shall include all usual and customary professional [type of services to be provided] _____ and related ancillary services including any required drafting or design 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 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, except for services for additional work or work beyond the scope of this Agreement, an amount not to exceed \$1.00 in the aggregate as set forth in Schedule 2 - "Fee Schedule" and computed in accordance with this Section. In the event compensation for services is set forth in Schedule 2 as to each phase of work indicated in Section 1.1 of this Agreement, the maximum amount of compensation for any phase shall not exceed the amount specified in Schedule 2 for such phase.
- 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.

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 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, Director, and address] _____; or to the Consultant, _____ [Consultant's legal name, name of authorized representative, and address] _____. 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 [Name of funding agency and or grant title]. Consultant agrees it is subject to and shall comply with all applicable provisions of said [Name of funding agency and or grant title] for which the contract award has been made and applicable regulations.

- B. Consultant shall comply with the attached [Title of attached requirement clauses] and any/all other 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 City and or [Name of funding agency and or grant title] 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.
- D. 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.

[Note: This entire section may be removed if not applicable.]

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. *[This section may be removed if not applicable.]*

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

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

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 pages.
- Schedule 2 - "Fee Schedule" consisting of ____ pages.
- Schedule 3 - "Identification of Personnel, Subcontractors, and Task Responsibility."
- [Add additional Schedules as needed]

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 or 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

[LEGAL NAME OF COMPANY]

By _____
Naomi Hedden, Director of Purchasing

By _____
[Name of authorized signer, title]

Attest _____
Marisa Stoller, City Clerk

[SEAL]

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

Alexandria Romero, Finance Director

APPROVED AS TO FORM

Dan Kogovsek, City Attorney

Attachments: Schedule 1 - Scope of Services
Schedule 2 - Fee Schedule
Schedule 3 - Project Schedule
Schedule 4 - Identification of Personnel, Subcontractors, and Task Responsibility

ADDITIONAL INFORMATION FOR CONTRACT

Certificate of Good Standing

Colorado PERA Questionnaire

Affirmative Action Plan

Insurance Certificates

3/10/23, 12:34 PM

Colorado Secretary of State - Summary



For this Record...
Filing history and documents
Trade names
Get a certificate of good standing
File a form
Subscribe to email notification
Unsubscribe from email notification
Subscribe to text notification
Unsubscribe from text notification

Business Home
Business Information
Business Search

FAQs, Glossary and Information

Summary

Details			
Name	Financial Consulting Solutions Group, Inc.		
Status	Good Standing	Formation date	10/01/2007
ID number	20071451891	Form	Foreign Other
Periodic report month	August	Jurisdiction	Washington
Principal office street address	7525 166th Ave NE Ste D215, Redmond, WA 98052-6672, US		
Principal office mailing address	7525 166th Ave NE Ste D215, Redmond, WA 98052-6672, US		

Registered Agent	
Name	C T Corporation System
Street address	7700 E Arapahoe Rd Ste 220, Centennial, CO 80112-1268, US
Mailing address	7700 E Arapahoe Rd Ste 220, Centennial, CO 80112-1268, US

[Filing history and documents](#)

[Trade names](#)

[Get a certificate of good standing](#)

[Get certified copies of documents](#)

[File a form](#)

[Set up secure business filing](#)

[Subscribe to email notification](#)

[Unsubscribe from email notification](#)

[Subscribe to text notification](#)

[Unsubscribe from text notification](#)

Back

Terms & conditions | Browser compatibility

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that,
according to the records of this office,
Financial Consulting Solutions Group, Inc.

is an entity formed or registered under the law of Washington, has complied with all
applicable requirements of this office, and is in good standing with this office. This entity has
been assigned entity identification number 20071451891.

This certificate reflects facts established or disclosed by documents delivered to this office on
paper through 03/08/2023 that have been posted, and by documents delivered to this office
electronically through 03/10/2023 @ 12:35:06.

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this
official certificate at Denver, Colorado on 03/10/2023 @ 12:35:06 in accordance with applicable law.
This certificate is assigned Confirmation Number 14771170.



Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF TRADE NAME

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office, a Statement of Trade Name for:

FCS GROUP

(Entity ID # 20211951594)

was filed in this office on 10/18/2021 with an effective date of 10/18/2021 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 03/08/2023 that have been posted, and by documents delivered to this office electronically through 03/10/2023 @ 15:03:02 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 03/10/2023 @ 15:03:02 in accordance with applicable law. This certificate is assigned Confirmation Number 14771914 .



Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."

**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, contract employee, consultant, independent contractor, or through other arrangements, is subject to employer contributions to PERA by the City of Pueblo. Therefore, as a condition of contracting 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 contractor, a PERA Retiree who will perform any services for the City of Pueblo? Yes___, No X. (If you answered "no" please proceed to signature section at bottom of this page.)

(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? For purposes of responding to this question, an "affiliated party" includes (1) any person who is the named beneficiary or cobeneficiary 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. 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), 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 contractor 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 contract or other arrangement for services between you and the City of Pueblo.

Please provide the name, address and social security number of each such PERA Retiree. If more than two, please attach a supplemental list.

Name	Address	Social Security Number
Name	Address	Social Security Number

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

Company Name: Financial Consulting Solutions Group, Inc.

Authorized Signature: *Diane Harmon* Title: Accounting Manager

Printed Name: Diane Harmon Date: October 20, 2021

Insert Affirmative Action Plan

Insert Insurance(s)



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: March 27, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE APPROVING A PUBLIC ART DONATION AGREEMENT BETWEEN TIA MONSON AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, RELATING TO THE DONATION OF ARTWORK FOR PUBLIC ENJOYMENT AS PART OF THE PUEBLO HISTORY AND ARTWALK PROJECT AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

SUMMARY:

Attached is an Ordinance approving a Public Art Donation Agreement between Tia Monson and the City of Pueblo related to the donation of a painted mural to be installed at the Clark Street levee access ramp along the route of the Pueblo History and Art Walk for public enjoyment.

PREVIOUS COUNCIL ACTION:

On October 26, 2020, City Council passed Resolution No. 14496, adopting the Colorado Smelter Revitalization Plan, which approved a slate of improvement projects in the Bessemer, Bojon Town, and Grove neighborhoods that could be completed as funding became available.

On January 9, 2023, City Council passed Ordinance No. 10369, approving an Intergovernmental Agreement between the City and the Pueblo Department of Public Health and Environment related to the establishment of the Pueblo History and Art Walk and related project support to be provided by the City's Public Works Department.

On January 23, 2023, City Council passed Ordinance No. 10373, establishing Project No. PL2203 - Colorado Smelter Revitalization Project Support and budgeting and appropriating funds in the amount of \$22,000.00 for the project.

BACKGROUND:

One of the stated goals in the Colorado Smelter Revitalization Plan was the installation of public artwork within the Bessemer, Bojon Town, and Grove neighborhoods. The Pueblo Department of Public Health and Environment commissioned several artists to

create artwork for installation along the Pueblo History and Art Walk route. Tia Monson is among those artists who have been selected to participate in the creation of artwork for this project.

FINANCIAL IMPLICATIONS:

Tia Monson will donate her painted mural to the City of Pueblo at no cost and she will be responsible for the installation and maintenance of the artwork for a period of two years while it is on public display. After the two-year maintenance period has expired, the City of Pueblo may, at its discretion, opt to continue displaying the artwork, or to remove the artwork. In such case, the City of Pueblo will be responsible for all costs associated with the maintenance of the artwork after Tia Monson's two-year maintenance period expires.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

This project was vetted within the local community and supported by the Bessemer, BojonTown, and Grove Improvement Network ("BEGIN") Governing Committee.

ALTERNATIVES:

Denial of this agreement will result in the City of Pueblo being unable to accept the donated artwork from Tina Monson.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Public Art Donation Agreement with Exhibit A (230316)

ORDINANCE NO. 10430

AN ORDINANCE APPROVING A PUBLIC ART DONATION AGREEMENT BETWEEN TIA MONSON AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, RELATING TO THE DONATION OF ARTWORK FOR PUBLIC ENJOYMENT AS PART OF THE PUEBLO HISTORY AND ARTWALK PROJECT AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

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

SECTION 1.

The Public Art Donation Agreement ("Agreement") by and between Tia Monson and the City of Pueblo, a Municipal Corporation, a copy of which is attached hereto and made a part hereof by reference, after having been approved as to form by the Pueblo City Attorney, is hereby approved. The Mayor is hereby authorized to execute said Agreement for and on behalf of the City of Pueblo and the City Clerk's Office is authorized to affix the seal of the City thereto and attest same.

SECTION 2.

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

SECTION 3.

This Ordinance shall become effective immediately upon passage and approval.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on March 27, 2023.

Final adoption of Ordinance by City Council on April 10, 2023.



President of City Council

Action by the Mayor:

- ☒ Approved on April 12, 2023.
- ☐ Disapproved on _____ based on the following objections:



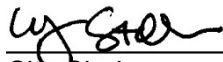
Mayor

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

PUBLIC ART DONATION AGREEMENT

THIS PUBLIC ART DONATION AGREEMENT ("Agreement") is hereby entered into this ____ day of _____, 2023 by and between the City of Pueblo, a Colorado municipal corporation ("City"), and Tia Monson ("Artist"). City and Artist may be individually referred to herein as "Party" or collectively referred to as "Parties."

WITNESSETH:

WHEREAS, Artist has been commissioned by the Pueblo Department of Public Health and Environment to create a painted mural ("Artwork") for public display and enjoyment;

WHEREAS, Artist represents that she is the sole owner of said Artwork and that she has the right to convey the Artwork and all intellectual property rights, including design and copyright, to City;

WHEREAS, Artist desires to convey the Artwork to City and install the Artwork for public display within the City;

WHEREAS, City agrees to accept ownership of the Artwork and have it installed for public display and enjoyment within the City subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the foregoing and all other covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, all Parties agree as follows:

1. The following terms as used in this Agreement shall have the following meanings:

"Effective Date" refers to the date of this agreement and means the date of final signature of any of the Parties to this Agreement, whichever is latest.

"Installation Date" means the date set forth in the Schedule for which the installation of the Artwork shall commence.

"Installation Deadline" means May 1, 2023 unless such date is extended in writing by the Director of Public Works, which extension shall be made at the sole and absolute discretion of said Director.

"Maintenance and Repair Services" means, without limitation, all actions required so that the Artwork is kept and maintained in a good, clean, safe and operable condition consistent and in compliance with all applicable laws, ordinances, and regulations including but not limited to removing dirt, grime, bird droppings, weeds, graffiti, and repairing minor damage to the Artwork caused by weather, Acts of God, vandalism or any other cause, including damage by a motor vehicle.

“Premises” means the designated area at the southwest end of the Clark Street right-of-way where the Artwork will be installed as indicated in Exhibit A, which is attached hereto and incorporated herein.

“Public Art Display” means the Artwork and other installed ancillary improvements which are located upon the Premises and which may be necessary for the safe public enjoyment of and access to the Artwork.

“Schedule” means the schedule for installation of the Artwork as required by this Agreement.

2. Within ten (10) days of the Effective Date of this Agreement, Artist shall provide City with the Schedule. The Schedule shall be subject to review and approval by City. Following approval of the Schedule by City, any subsequent changes must be approved by City before installation may commence. It is expressly acknowledged and agreed that the placement or location of the Artwork upon City property or within a public right-of-way must be approved by the City’s Director of Public Works.

3. Subject to and conditioned upon the approval of the Schedule, City agrees to allow Artist to install the Artwork (or to have the Artwork installed) upon the Premises.

4. Upon installation of the Artwork by Artist and written acceptance of the installed Artwork by City, ownership of the Artwork and all intellectual property rights, including design and copyright, shall be conveyed to and become the property of City. Risk of loss or damage to the Artwork will be borne by Artist until the Artwork is installed and accepted by City. For two (2) years following the Installation Date, Artist agrees to perform Maintenance and Repair Services for the Artwork at her sole expense. For two (2) years following the Installation Date, City agrees to retain ownership of the Artwork, and all rights attached thereto, and except as provided in Paragraph 8 below, City agrees to coordinate with Artist to ensure public access to and enjoyment of the Artwork.

5. If for any reason City refuses to accept the installed Artwork, Artist shall retain ownership of the Artwork and shall be responsible for removing the Artwork from the Premises at her sole expense within forty-five (45) days after notice by City. Artist **shall not** be responsible for removing the concrete slab foundation or any installed landscaping improvements.

6. If Artist fails to install the Artwork prior the Installation Deadline, City’s obligations under this Agreement shall terminate, and Artist shall return the Premises to their original conditions except Artist shall not be responsible for removing the concrete slab foundation or any installed landscaping improvements.

7. Artist agrees to indemnify, defend, save and hold harmless the City, its respective agents, officers, directors, employees and representatives from and against any and all claims, suits, losses, injuries, damages, liabilities and expenses, including, without limitation, reasonable attorneys’ fees and expenses occasioned in connection with, arising or alleged to arise from, wholly or in part, the Maintenance and Repair Services provided by Artist under this Agreement.

8. If Artist is unable or unwilling to provide Maintenance and Repair Services, if Artwork or

Public Art Display becomes a nuisance, or if Artwork is damaged and repair or restoration costs exceed reasonable economic value for the replacement of the Artwork, City may remove and dispose of the Artwork at its sole discretion. If Artwork is removed by City for any of the conditions specified within this Paragraph 8 within the two-year period following the acceptance of the Artwork by City, City shall provide written notice to Artist of its decision.

9. No term or provision of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, benefits, rights, protections, or any other provision of the Colorado Governmental Immunity Act, sections 24-10-101 and 120, C.R.S., as amended, or any other law granting immunity to the City and each of its respective officers and employees.

10. This Agreement sets forth all understandings and agreements between the Parties relating to the subject matter hereof. No modification or amendment to this Agreement shall be valid unless set forth in writing and approved by the Parties. No verbal representation, agreement or understanding by any officer or employee of the City, either before or after execution of this Agreement, shall modify or amend any of the terms and provisions of this Agreement.

11. The provisions of this Agreement are for the benefit of the named Parties only, and no third party shall have any right or remedy hereunder or the right to enforce any provision of this Agreement.

12. This Agreement shall be construed in accordance with and be governed by the laws of the State of Colorado without regard to conflict of law principles.

13. Time is of the essence hereof. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns, provided Artist may not assign this Agreement or any interest herein without the express written consent of City.

14. In no event shall the City, its officers, agents or employees, be liable to Artist for damages, including without limitation, compensatory, punitive, indirect, special or consequential damages, resulting from or arising out of or related to this Agreement or the performance or breach thereof by City, or the failure or delay of City in the performance of any covenant or provision under this Agreement on its part to be performed. In consideration of City entering into this Agreement, Artist hereby waives and discharges City, its officers, agents and employees from all claims for any and all such damages. No breach, default, delay or failure of City under this Agreement shall be or be construed to be a waiver, discharge or release of Artist's obligations under this Agreement.

15. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the other provisions of this Agreement which shall remain in full force and effect.

16. Each Party acknowledges that this Agreement was fully negotiated by the Parties and, therefore, no provision of this Agreement shall be interpreted against any Party because such Party or its legal representative drafted such provision.

17. 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 jurisdiction of such District Court. To the fullest extent permitted by law, the Parties hereby waive their right to a trial by jury.

18. This Agreement may be executed in one (1) 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.

SIGNATURE PAGE

ATTEST:

CITY OF PUEBLO

By: _____
Marisa Stoller, City Clerk

By: _____
Mayor Nicholas A. Gradisar

Date: _____

Date: _____

[S E A L]

TIA MONSON

By: _____
Tia Monson

Date: _____

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by Tia Monson.

Witness my hand and official seal.

[S E A L]

My commission expires _____.

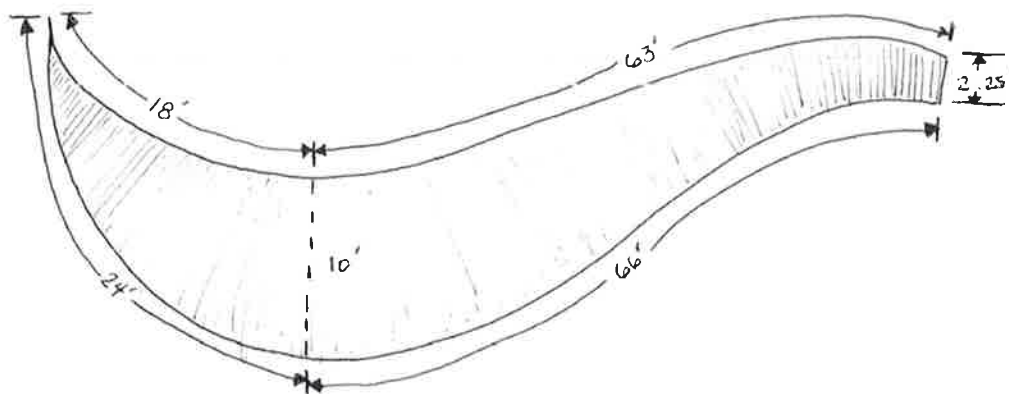
Notary Public

EXHIBIT A – ARTWORK PREMISES AND INSTALLATION DETAILS

Artist shall install a painted mural on the concrete surface of the levee access ramp at the southwesterly end of the Clark Street right-of-way generally as shown in red on the map below:



The area to be painted is depicted in the photograph with approximate dimensions as detailed in the diagram below:



A-2

The mural shall depict a graphic including silhouettes of cyclists, swirls and stars, and the words, “The Grove” (rather than “Pueblo Colorado”) generally as shown in the graphic below with adaptations to fit the approved space for installation:





**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: March 27, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Scott Hobson, Acting Director Planning and Community Development

SUBJECT: AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE 2001, 2005, 2009 OAKLAND AVENUE, LOTS 1 THROUGH 3 BLOCK 1, CF&I CORPORATION SUBDIVISION, FROM R-2, SINGLE FAMILY RESIDENTIAL AND O-1, NEIGHBORHOOD OFFICE TO R-5, MULTIPLE RESIDENTIAL AND OFFICE ZONE DISTRICT

SUMMARY:

The applicant is requesting to rezone 2001, 2005, 2009 Oakland Avenue, Lots 1 through 3 Block 1, CF&I Corporation Subdivision, from R-2, Single Family Residential and O-1, Neighborhood Office to R-5, Multiple Residential and Office Zone District, on behalf of the Sisters of Charity Health Services

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Pueblo Community College is opening a new Nursing and Allied Health Teaching and Learning Center at St. Mary Corwin Hospital. The property proposed to be rezoned will be redeveloped as a surface parking lot for the nursing students to minimize adverse impacts on existing parking facilities at the hospital. The project will involve demolition of three single family homes, constructed in the 1940's and currently owned by the hospital. 2001 Oakland Avenue is zoned O-1, and previously operated as an administrative office. 2005 and 2009 Oakland Avenue are currently zoned R-2 and were used as residences. At the February 8, 2023 Planning and Zoning Commission hearing four residents of the homes adjacent to the property proposed to be rezoned spoke in opposition to the rezoning request based on the impact of a parking lot to the residential character of the neighborhood and additional traffic the parking lot could generate on Oakland Avenue. Oakland Avenue is a one-way street extending south from Minnequa Avenue to Indiana Avenue. The intent of the R-5 Zone District is to provide "areas of high-density multifamily dwelling structures with limited comingling of professional offices and studios". These developed neighborhoods have a traditional neighborhood pattern with a diversity of affordable housing types on a variety of lot

sizes with small lots predominating.” The R-5 Zone District does allow for a wide variety of complimentary uses to support multifamily, and office uses including hospitals and parking lots which are all uses by right. As a new use in the R-5 Zone District, the parking lot will need to be landscaped in accordance with Sec. 17-4-7 of the Pueblo Municipal Code and meet all other development regulations. The Traffic Department recommended the parking lot ingress/egress be located as far away from the intersection of Oakland Avenue and Minnequa Avenue as possible. Access points and landscaping will be reviewed at the time of commercial site plan review.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their February 8, 2023 Regular Meeting, voted 4-3 to recommend approval.

STAKEHOLDER PROCESS:

The Planning Department sent out Notice of the Planning and Zoning Commission Public Hearing to all property owners located within 300 feet of the subject property.

A Public Notice poster was placed on the subject property 15 days prior to the Public Hearing.

ALTERNATIVES:

Upon request of City Council, the Ordinance could be returned to the Planning and Zoning Commission for consideration of proposed modifications.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Proposed Ordinance, Minutes of P&Z Feb 8th Public Hearing, P&Z Staff Report

ORDINANCE NO.

AN ORDINANCE AMENDING ZONING RESTRICTIONS TO
REZONE 2001, 2005, 2009 OAKLAND AVENUE, LOTS 1
THROUGH 3 BLOCK 1, CF&I CORPORATION SUBDIVISION,
FROM R-2, SINGLE FAMILY RESIDENTIAL AND O-1,
NEIGHBORHOOD OFFICE TO R-5, MULTIPLE RESIDENTIAL
AND OFFICE ZONE DISTRICT

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

SECTION 1.

The zoning restrictions covering the following described property, and in addition half of all adjacent dedicated roadway and alley rights-of-way, together generally identified in the attached Rezone Exhibit, is hereby changed from R-2, Single Family Residential and O-1, Neighborhood Office Zone District to R-5, Multiple Residential and Office Zone District:

Lot 1-3, Block 1, CF&I Corporation Subdivision

SECTION 2.

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

SECTION 3.

This Ordinance shall become effective immediately upon final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on March 27, 2023.

Final adoption of Ordinance by City Council on April 10, 2023.

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:

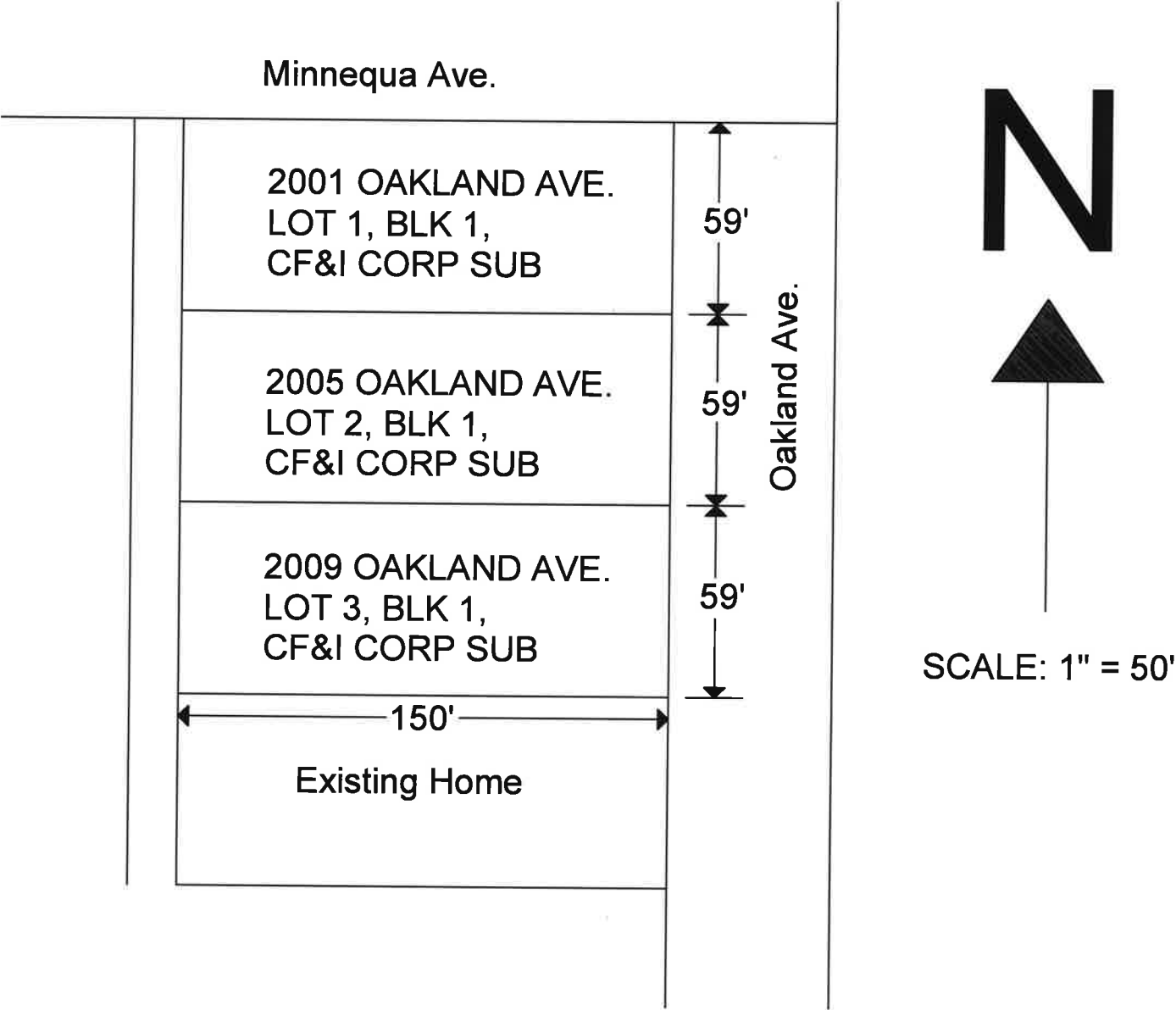
- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

2001, 2005 & 2009 OAKLAND AVE.
PUEBLO, CO 81004

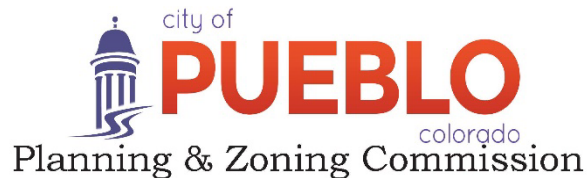


ZONING EXHIBIT
REQUEST TO REZONE FROM 0-1/R-2 TO R-5

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, February 8, 2023 – 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 3:33 p.m. with Commissioner Castellucci presiding.

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

Commissioners Absent: *None*

Staff Members Present: Dan Kogovsek, City Attorney; Scott Hobson, Acting Director for Department of Planning and Community Development; Beritt Odom, Principal Planner; Cindy Capritta, Land Use Technician.

APPROVAL OF THE AGENDA: Bailey moved to approve the January 11, 2023, agenda, motion was seconded by Spinuzzi. Motion passed 7-0.

REGULAR AGENDA:

Public Hearing and Action:

1. Z-22-21 Rezoning: 2001, 2005, 2009 Oakland Ave, rezoning .6 acres from R-2, Single Family residential and O-1, Neighborhood Office to R-5, Multiple Residential and Office District to develop a parking lot. Legally described as Lots 1,2,3, Block 1, Colorado Fuel and Iron Corporation Subdivision. Staff report by Wade Broadhead, Sr. Planner.

Discussion and Commission Action:

- Applicants: Tony Acri and Nick Laydon sworn in and spoke in favor of the Rezoning.
- Leroy Atencio, Mike Venuto, Fabian Montoya and Kate Ingo were sworn in and spoke in opposition to the application for Rezoning.

Bailey motioned to approve Z-22-21 **Rezoning**, motion was seconded by Avalos.

Motion Passed: 4 - 3.

Z-22-21

TO: City of Pueblo, Planning and Zoning Commission

FROM: Wade Broadhead, Senior Planner

THROUGH: Scott Hobson, Acting Director of Planning and Community Development

DATE: February 8, 2023

SUBJECT: Rezone from R-2, Single Family Residential and O-1, Neighborhood Office to R-5, Multiple Residential and Office.

APPLICANT: Pueblo Urban Renewal Authority

PROPERTY OWNER: Sisters of Charity Health Services; Catholic Health Initiative

LOCATION: 2001, 2005, and 2009 Oakland Avenue

CONCURRENT REQUEST(S): None

REQUEST:

Pueblo Urban Renewal Authority is requesting to rezone 2001, 2005, 2009 Oakland Avenue, Lots 1 through 3 Block 1, CF&I Corporation Subdivision, from R-2, Single Family Residential and O-1, Neighborhood Office to R-5, Multiple Residential and Office Zone District, on behalf of the Sisters of Charity Health Services.

BACKGROUND AND ANALYSIS:

Pueblo Community College is opening a new Nursing and Allied Health Teaching and Learning Center at St. Mary Corwin Hospital. The proposed rezoned will be redeveloped as a surface parking lot for the nursing students to minimize adverse impacts on existing parking facilities at the hospital. The project will involve demolition of three single family homes, constructed in the 1940's and currently owned by the hospital. 2001 Oakland Ave is zoned O-1, and previously operated as an administrative office. 2005 and 2009 Oakland are currently zoned R-2 and were used as residences.

The intent of the R-5 Zone District is to provide "areas of high density multifamily dwelling structures with limited comingling of professional offices and studios". These developed neighborhoods have a traditional neighborhood pattern with a diversity of affordable housing

types on a variety of lot sizes with small lots predominating.” The R-5 Zone District does allow for a wide variety of complimentary uses to support multifamily, and office uses including hospitals and parking lots which are all uses by right. As a new use in the R-5 Zone District, the parking lot will need to be landscaped in accordance with Sec. 17-4-7 of the Pueblo Municipal Code and meet all other development regulations. The Traffic Department recommended the parking lot ingress/egress be located as far away from the intersection of Oakland and Minnequa as possible. Access points and landscaping will be reviewed at the time of commercial site plan review.

CHARACTER AND COMPATIBILITY WITH THE NEIGHBORHOOD:

Site Character: 2001, 2005, 2009 Oakland Ave are comprised of three lots, Lots 1 - 3, Colorado Fuel and Iron Subdivision. 2001 Oakland Ave. was constructed in 1941 as a single-family residence but has operated as an office since the late 1960’s. 2005 Oakland Ave. was constructed in 1941 and has been used as a residence. 2009 Oakland Ave. was constructed in 1948 and has been used as a residence.

Neighborhood Compatibility:

North	R-5 Multiple Residential and Office District, developed with St. Mary Corwin Hospital and associated offices and parking.
East	R-2, Single Family Residential District, developed with single-family residences.
South	R-2, Single-Family Residential District, developed with single-family residences.
West	R-2, Single-Family Residential District, developed with single-family residences.

Comprehensive Plan:

The area proposed to be rezoned is designated as Urban Neighborhood by the “Pueblo Regional Comprehensive Plan, 2022.” According to the Comprehensive Plan, Urban Neighborhoods are generally located in the central portion of the city and were developed prior to 1950. Such neighborhoods are characterized by uniform block sizes with gridded streets, alleys, and an integrated mix of housing types, including single-family homes, duplexes, small multi-family buildings, and accessory dwelling units.

The proposed rezoning to facilitate a parking lot and the Comprehensive Plan does note “complimentary uses” as supporting land uses and parking lots qualify under that definition.

ZONING AMENDMENT TEST

The standard for accepting an amendment to the zoning map is that the proposed zoning action must either:

- 1) Further the goals and objectives of the comprehensive land use plan, or
 - The rezoning and future development of “complimentary uses” for needed serves that are embedded in the Urban Neighborhood land use category.
- 2) Show that the area has changed significantly since the adoption of the comprehensive land use plan
 - Not Applicable
- 3) Show that there was a mistake or error made in the original zoning of the property.
 - Not Applicable

APPLICATION REQUIREMENT PER §17-6-1 OF THE PUEBLO MUNICIPAL CODE

The applicant's name and address and the name and address of any person, firm or corporation represented by such applicant in the application.

- The application contains the required information.

The interest of the applicant and the interest of the person, firm or corporation represented by the applicant, be it legal, sales development, operation, or other interest

- The application contains the required information

The nature of the amendment and a legal description of the property that would be affected by the amendment.

- The application contains the required information

The nature of the amendment and a legal description of the property that would be affected by the amendment.

- The application contains the required information

A statement of the facts which the applicant believes justify the amendment:

- According to the applicant, St. Mary Corwin Hospital needs additional parking for the nursing program at the nursing school located within the hospital. The three residences will be demolished to develop a parking lot for the nursing students.

A general description of the proposed development to the distance which will be affected; such description including subjects of environmental effect, economic effect, and traffic effect, if any; and such description carried out in scope and detail to the extent needed to support the requested amendment and as may be required by the Planning and Zoning Commission.

- The rezoning site will remove three single family homes, one of them acting as an office now. The new parking use will provide parking for the nursing education center.

A tentative site plan showing proposed structures, uses, open spaces, facilities for parking and loading and arrangements for pedestrian and vehicular circulation

- A zoning exhibit and a tentative parking lot layout were provided by Pueblo Urban Renewal

A statement of the proposed time schedule for beginning and completion of development.

- The application mentioned the project will start July 2023 and finish in November 2023.

A statement reasonably indicating the applicant's economic responsibility and capability of accomplishing the development for which a zoning amendment is requested.

- St. Mary Corwin is a major hospital with the resources to accomplish this project.

RECOMMENDED ACTION:

If the Planning and Zoning Commission finds the rezoning request furthers the goals and objectives of the Comprehensive Plan, a recommendation of approval to City Council is appropriate.

REFERRAL AGENCIES AND COMMENTS:

- City Public Works-No comment
- City Transportation- The driveway (access point) should be as far away from Minnequa as possible, Melanie Turner, Interim Traffic Eng.
- City Law Department-No comment
- Pueblo Regional Building Department-No comment
- City Fire Department-No comment
- City Wastewater-No comment
- City Stormwater-No comment
- City Parks and Recreation Department-No comment
- Xcel Energy- Xcel energy has existing ¾" PE gas services to all 3 addresses. The customer will need to apply, through the Builder's Call Line, for each address to have each gas service cut off at the 2" PE gas main in the street. This will be at the customer's expense.
- Black Hills Energy-No comment
- CDOT-No comment

ATTACHMENTS:

- A. Aerial Photograph
- B. Zoning Map
- C. Comprehensive Plan Map
- D. Site Photographs
- E. Zoning Exhibit



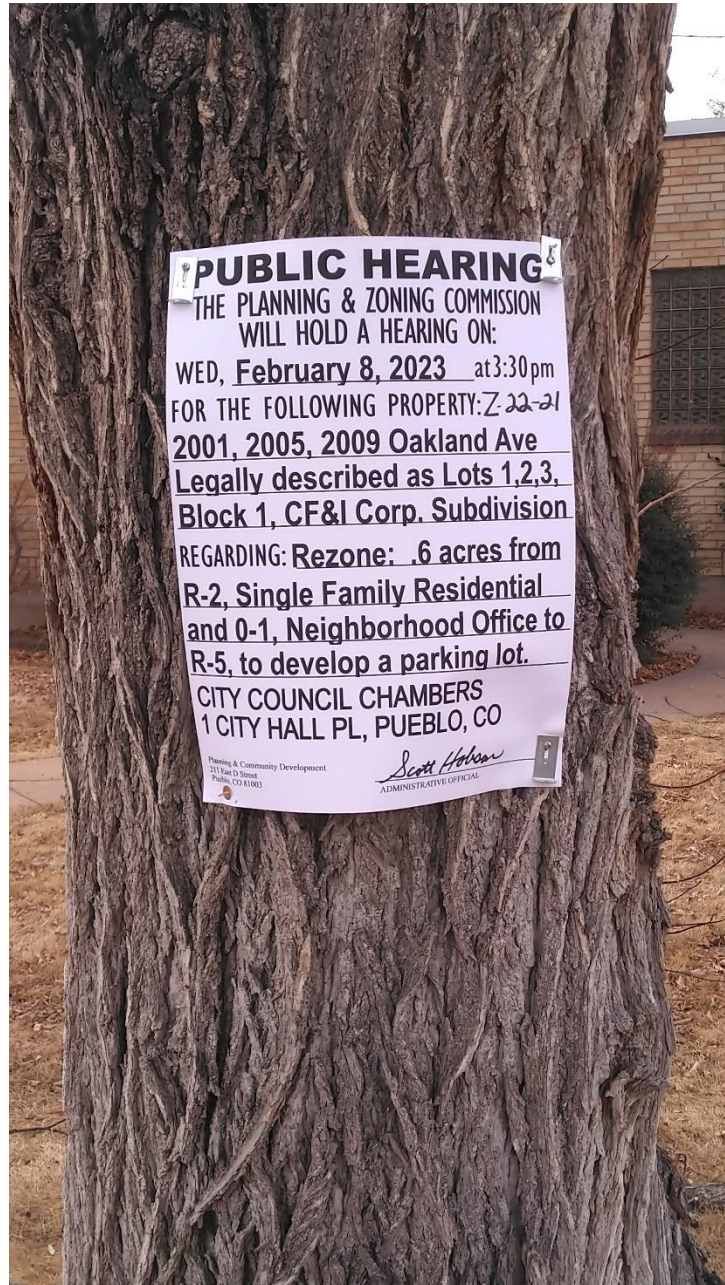
A. Aerial Photograph



B. Zoning



C. Comprehensive Plan



D. Public Notice looking south from E. 2nd Street



D. Site looking west from Oakland Ave



D. Southern building (2009 Oakland Ave) being removed for the parking lot



D. Overview of the O-1 Zoned lot, 2001 Oakland Ave. and parking on the rear.

January 24, 2023

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **City of Pueblo.** for approval of the following application:

Z-22-21 Rezoning: 2000, 2005, 2009 Oakland Ave., Lots 1-3, Block 9 Colorado Fuel and Iron Subdivision, from R-2, Single Family Residential and O-1 Neighborhood Office to R-5, Multiple-Residential and Office District

The Planning and Zoning Commission meeting will be held on February 8, 2023, at 3:30 p.m., in City Council Chambers, 1 City Hall Place, Pueblo, CO or by Zoom: <https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGBnlCdHRrUHNFZnpPWGIYdz09>, Meeting ID: 927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston). You are welcome to attend this public hearing and express your viewpoint concerning this proposal. To review the plans and staff report for the proposed application, please visit www.pueblo.us/PandZ and click on “Most Recent Agenda” no sooner than the Friday prior to the hearing. **Please contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Wade Broadhead, Senior Planner
(719) 553-2280

January 24, 2023

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **City of Pueblo.** for approval of the following application:

Z-22-21 Rezoning: 2000, 2005, 2009 Oakland Ave., Lots 1-3, Block 9 Colorado Fuel and Iron Subdivision, from R-2, Single Family Residential and O-1 Neighborhood Office to R-5, Multiple-Residential and Office District

The Planning and Zoning Commission meeting will be held on February 8, 2023, at 3:30 p.m., in City Council Chambers, 1 City Hall Place, Pueblo, CO or by Zoom: <https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGBnlCdHRrUHNFZnpPWGIYdz09>, Meeting ID: 927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston). You are welcome to attend this public hearing and express your viewpoint concerning this proposal. To review the plans and staff report for the proposed application, please visit www.pueblo.us/PandZ and click on “Most Recent Agenda” no sooner than the Friday prior to the hearing. **Please contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Wade Broadhead, Senior Planner
(719) 553-2280

January 24, 2023

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **City of Pueblo.** for approval of the following application:

Z-22-21 Rezoning: 2000, 2005, 2009 Oakland Ave., Lots 1-3, Block 9 Colorado Fuel and Iron Subdivision, from R-2, Single Family Residential and O-1 Neighborhood Office to R-5, Multiple-Residential and Office District

The Planning and Zoning Commission meeting will be held on February 8, 2023, at 3:30 p.m., in City Council Chambers, 1 City Hall Place, Pueblo, CO or by Zoom: <https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGBnlCdHRrUHNFZnpPWGIYdz09>, Meeting ID: 927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston). You are welcome to attend this public hearing and express your viewpoint concerning this proposal. To review the plans and staff report for the proposed application, please visit www.pueblo.us/PandZ and click on “Most Recent Agenda” no sooner than the Friday prior to the hearing. **Please contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Wade Broadhead, Senior Planner
(719) 553-2280

January 24, 2023

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **City of Pueblo.** for approval of the following application:

Z-22-21 Rezoning: 2000, 2005, 2009 Oakland Ave., Lots 1-3, Block 9 Colorado Fuel and Iron Subdivision, from R-2, Single Family Residential and O-1 Neighborhood Office to R-5, Multiple-Residential and Office District

The Planning and Zoning Commission meeting will be held on February 8, 2023, at 3:30 p.m., in City Council Chambers, 1 City Hall Place, Pueblo, CO or by Zoom: <https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGBnlCdHRrUHNFZnpPWGIYdz09>, Meeting ID: 927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston). You are welcome to attend this public hearing and express your viewpoint concerning this proposal. To review the plans and staff report for the proposed application, please visit www.pueblo.us/PandZ and click on “Most Recent Agenda” no sooner than the Friday prior to the hearing. **Please contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Wade Broadhead, Senior Planner
(719) 553-2280

CASE NUMBER: Z-22-21

CERTIFICATION

I hereby certify that I did this day cause written notice of the public hearing on the proposed Zoning Map Amendment of the property located at 2001, 2005, 2009 Oakland to be sent to the attached list of owners of the real property lying within three hundred (300) feet of the said property on which the Zoning Map Amendment is proposed by depositing the same properly addressed and postage paid in the post office, as set forth in the Code of Ordinances, Section 17-6-2.

January 24, 2023

(Date)

PUEBLO PLANNING & ZONING COMMISSION

By Cindy Caputo

I hereby certify that I did this day verify and photograph the posted notice of the public hearing on the Zoning Map Amendment of the property located at 2001, 2005, 2009 Oakland, upon which action is pending as set forth in the Code of Ordinances, Section 17-6-2.

1/24/2023

(Date)

PUEBLO PLANNING & ZONING COMMISSION

By [Signature]

Owner	OwnerStree	OwnerCity	Own	OwnerZip
MORGAN BAMA J	10 MORNINGVIEW PL	PUEBLO	CO	81008-1863
BRUSS JAMIE J	1516 WHIPPOORWILL PL	PUEBLO	CO	81006-9761
COATNEY AMANDA MAE / RICHARDS	2000 WYOMING AVE	PUEBLO	CO	81004-3750
ALANIZ VINCENT	2001 E ORMAN AVE	PUEBLO	CO	81004-3713
WELLEN MARY JO + GRECO ROSE B	2001 WYOMING AVE	PUEBLO	CO	81004-3749
MONTOYA FABIAN R + MASCARENAS	2002 OAKLAND AVE	PUEBLO	CO	81004-3710
SANDOVAL DELPHINE A + SANDOVAL	2002 WYOMING AVE	PUEBLO	CO	81004-3750
ARCHULETA DAVID	2003 WYOMING AVE	PUEBLO	CO	81004-3749
DEGARBO ROBERT/DEGARBO ANDRE	2004 WYOMING AVE	PUEBLO	CO	81004-3750
SHEARD MICHAEL E	2005 WYOMING AVE	PUEBLO	CO	81004-3749
ROLON EDUARDO MARTIN	2006 WYOMING AVE	PUEBLO	CO	81004-3750
MARTINEZ SANDY S/MARTINEZ LORI	2007 E ORMAN AVE	PUEBLO	CO	81004-3713
HERRERA DAVINIA R/ HERRERA EUGI	2007 WYOMING AVE	PUEBLO	CO	81004-3749
KLETZLI KATELYNN	2008 WYOMING AVE	PUEBLO	CO	81004-3750
MAY MARLENE A	2009 WYOMING AVE	PUEBLO	CO	81004-3749
STONE LARRY L/STONE DOLLIE E	2011 E ORMAN AVE	PUEBLO	CO	81004-3713
DIAZ ANDREW J	2012 WYOMING AVE	PUEBLO	CO	81004-3750
ORTIZ DANIELLE	2014 WYOMING AVE	PUEBLO	CO	81004-3750
TOWNS JAMES RONALD/INGO SAM	2015 E ORMAN AVE	PUEBLO	CO	81004-3713
NEILL LONNIE G / WK4BK LIVING TRU	2016 CHAMBERLIN AVE	COLORADO SP	CO	80906
STEPHENS RAYMOND	2016 OAKLAND AVE	PUEBLO	CO	81004-3710
VENUTO ANTHONY MICHAEL/VENUT	2017 OAKLAND AVE	PUEBLO	CO	81004-3709
TRUJILLO ROSE ANN	2020 OAKLAND AVE	PUEBLO	CO	81004-3710
SAENZ NATHAN A/SAENZ DEJAH L	2021 E ORMAN AVE	PUEBLO	CO	81004-3713
PLUTE DIANA J	2023 E ORMAN AVE	PUEBLO	CO	81004-3713
PETERSON DONALD R	2025 OAKLAND AVE	PUEBLO	CO	81004-3709
TANKINS CHRISTOPHER SR	2025 WYOMING AVE	PUEBLO	CO	81004-3749
MONTIEL MICHELLE L / SHANLEY PHI	2026 OAKLAND AVE	PUEBLO	CO	81004-3710
RAMOS CARLOS	2030 OAKLAND AVE	PUEBLO	CO	81004-3710
SAN MIGUEL CHRISTOPHER LEE / LOV	2031 OAKLAND AVE	PUEBLO	CO	81004-3709
ATENCIO LEROY A + ATENCIO KATHLI	2035 OAKLAND AVE	PUEBLO	CO	81004-3709
HERNANDEZ EDUARDO	2038 WYOMING AVE	PUEBLO	CO	81004-3750
CATHOLIC HEALTH INITIATIVE + MOUI	2222 N NEVADA AVE	COLORADO SP	CO	80907-6819
VASQUEZ MICHELE	2504 TUCCI LN	PUEBLO	CO	81004-4165
SMITH KRIYAH B + KATE INGO	27268 TORCHEY WAY	PUEBLO	CO	81006-9757
DENSFORD JEWEL MARIE	501 CLEVELAND ST	PUEBLO	CO	81004-1410
CORDOVA JOHN R	PO BOX 3844	PUEBLO	CO	81005-0844



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: March 27, 2023

TO: President Heather Graham and Members of City Council
CC: Mayor Nicholas A. Gradisar
VIA: Marisa Stoller, City Clerk
FROM: Scott Hobson, Acting Director Planning and Community Development
SUBJECT: AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE
2716 THORNBERRY LANE, LOT 4, BLOCK 4, SOUTH PRAIRIE
SUBDIVISION, 2ND FILING, FROM B-3, HIGHWAY AND ARTERIAL
BUSINESS DISTRICT TO I-2, LIGHT INDUSTRIAL DISTRICT

SUMMARY:

The applicant is requesting to rezone 2716 Thornberry Lane, Lot 4, Block 4, South Prairie Subdivision, 2nd Filing, from B-3, Highway and Arterial District to I-2, Light Industrial District.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Mr. Trapp, owner of 2716 Thornberry Lane is requesting to rezone the property to an I-2, Light Industrial Zone District to allow outdoor storage and construction of an industrial warehouse building on the site. The proposed I-2 Zone District is designed to provide areas for the manufacture, warehousing, and limited retailing of products. The applicant plans to use 2716 Thornberry Lane as a contractor's yard and possibly construct a warehouse for Industrial Plumbing and Heating Co., located directly west, at 3102 South Prairie. A contractor's yard is a use by right in the I-2 Zone District. The subject property was annexed in 1972 and was zoned B-3, Highway and Arterial Business District. In 1976 the property was subdivided to facilitate development of warehousing, light industrial and commercial uses, creating a light industrial and business park in a B-3 Zone District. 2716 Thornberry was never developed and may have been previously used for outdoor storage. The properties located north and south are zoned BP, Business Park, which allows a mixture of retail and industrial uses. Properties to the east are zoned B-3; however, many house light industrial uses, such as self-storage and the Industrial Plumbing and Heating Co. to the west. The 2022 Comprehensive Plan identifies this area for light industrial uses for future development.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their March 8, 2023 Regular Meeting, voted 6-0 to recommend approval, Commissioner Martinez absent.

STAKEHOLDER PROCESS:

The Planning Department sent out Notice of the Planning and Zoning Commission Public Hearing to all property owners located within 300 feet of the subject property.

A Public Notice poster was placed on the subject property 15 days prior to the Public Hearing.

ALTERNATIVES:

Upon request of City Council, the Ordinance could be returned to the Planning and Zoning Commission for consideration of proposed modifications.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Proposed Ordinance, Minutes of the P&Z March 8th, Public Hearing, P&Z Staff Report

ORDINANCE NO. 10431

AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE 2716 THORNBERRY LANE, LOT 4, BLOCK 4, SOUTH PRAIRIE SUBDIVISION, 2ND FILING, FROM B-3, HIGHWAY AND ARTERIAL BUSINESS DISTRICT TO I-2, LIGHT INDUSTRIAL DISTRICT

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

SECTION 1.

The zoning restrictions covering the following described property, and in addition half of all adjacent dedicated roadway and alley rights-of-way, together generally identified in the attached Rezone Exhibit, is hereby changed from B-3, Highway and Arterial Business Zone District to I-2, Light Industrial Zone District:

Lot 4 Block 4 South Prairie Subdivision, Filing No. 2

SECTION 2.

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

SECTION 3.

This Ordinance shall become effective immediately upon final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on March 27, 2023.

Final adoption of Ordinance by City Council on April 10, 2023.



President of City Council

Action by the Mayor:

- ☒ Approved on April 12, 2023.
- ☐ Disapproved on _____ based on the following objections:



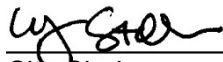
Mayor

Action by City Council After Disapproval by the Mayor:

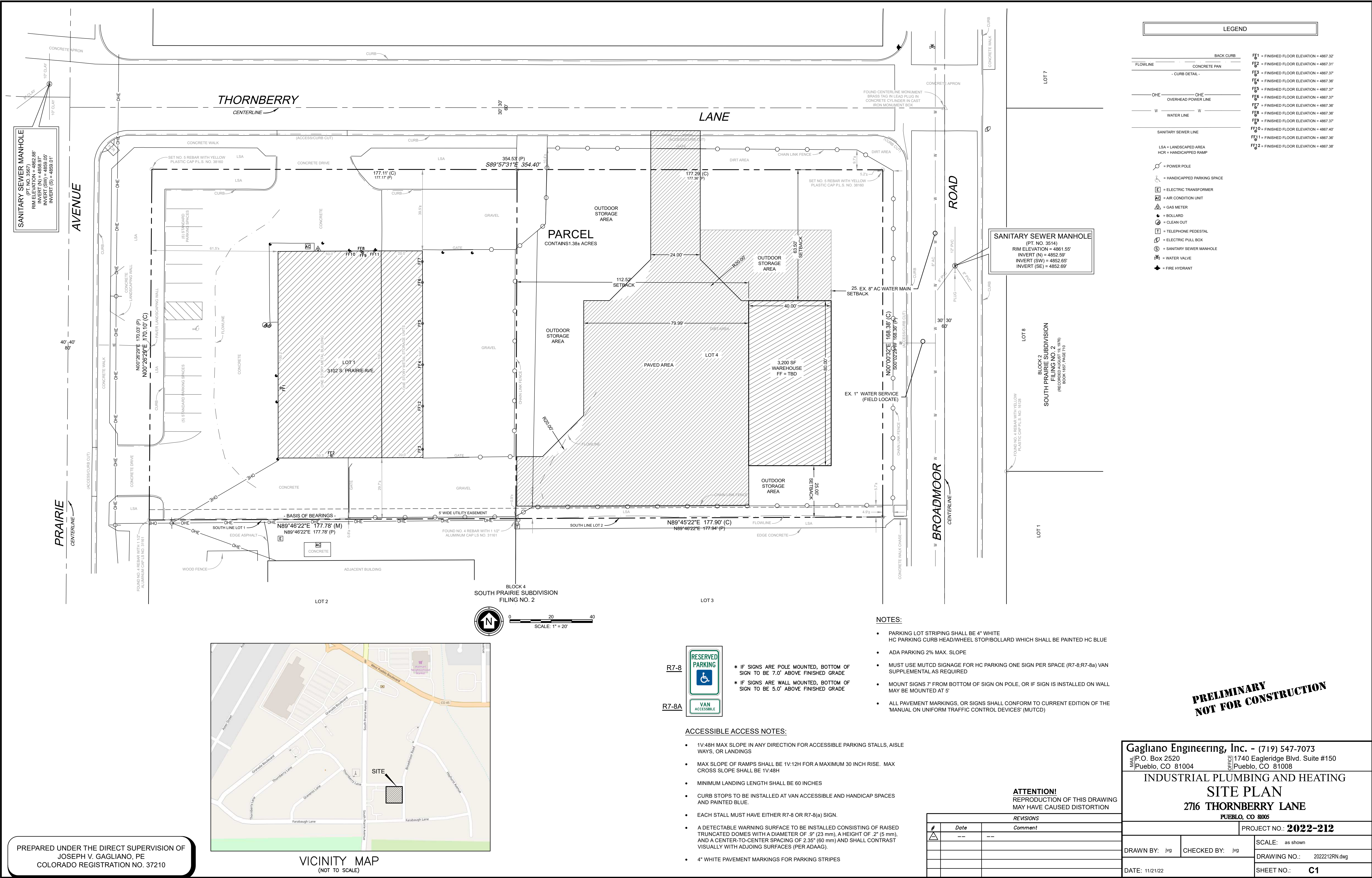
- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



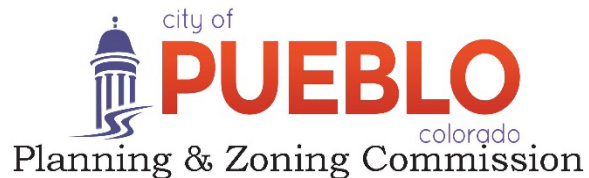
City Clerk



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, March 8, 2023 – 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 3:32 p.m. with Commissioner Castellucci presiding.

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

Commissioners Absent: Sarah Martinez

Staff Members Present: Dan Kogovsek, City Attorney; Scott Hobson, Acting Director for Department of Planning and Community Development; Beritt Odom, Principal Planner, Cindy Capritta, Land Use Technician.

APPROVAL OF THE AGENDA: Bailey moved to continue items: S-22-11, S-21-13, Z-22-20, S-22-14, and SAP-23-01 to the April 12, 2023 Public Hearing, seconded by Spinuzzi and approve the March 8, 2023, agenda.

Motion Passed: 6-0, Martinez Absent

PUBLIC MEETINGS AND ACTION - NONE

REGULAR AGENDA:

Public Hearing:

2. Z-22-23 Rezone: 2716 Thornberry Lane, approximately .69 acres to be rezoned from B-3 Highway and Arterial Business District to I-2, Light Industrial District. Generally, located south of Thornberry Lane and west of Broadmoor Rd.

Discussion: Principal Planner Beritt Odom provided Staff Report.

Public Hearing: Applicant Joe Gagliano, Gagliano Engineering, was sworn in and testified in favor of the application. Mr. Gagliano answered questions from the Board.

Commission Action: Bailey moved to approve the Rezone, seconded by Avalos.

Motion Passed: 6-0. Martinez Absent

Approval of Minutes: February 8, 2023

Bailey moved to approve the minutes, seconded by Avalos.

Motion Passed: 6-0. Martinez Absent

Z-22-23

TO: City of Pueblo, Planning and Zoning Commission

FROM: Beritt Odom, Principal Planner

THROUGH: Scott Hobson, Acting Director of Planning and Community Development

DATE: March 8, 2023

SUBJECT: Rezone from B-3, Highway and Arterial Business District to I-2, Light Industrial District.

APPLICANT: Michael Trapp, M3 Real Estate LLC

PROPERTY OWNER: Michael Trapp, M3 Real Estate LLC

LOCATION: 2716 Thornberry Ln.

CONCURRENT REQUEST(S): None

REQUEST:

The applicant is requesting to rezone 2716 Thornberry Lane, Lot 4, Block 4, South Prairie Subdivision, 2nd Filing, from B-3, Highway and Arterial Business District to I-2, Light Industrial District.

BACKGROUND AND ANALYSIS:

Mr. Trapp, owner of 2716 Thornberry Ln. is requesting to rezone the property to an I-2, Light Industrial Zone District to allow outdoor storage and construction of an industrial warehouse building on the site. The proposed I-2 Zone District is designed to provide areas for the manufacture, warehousing, and limited retailing of products. The applicant plans to use 2716 Thornberry Ln. as a contractor's yard and possibly construct a warehouse for the Industrial Plumbing business, located directly west, at 3102 S. Prairie. A contractor's yard is a use by right in the I-2 Zone District.

The subject property was annexed in 1972 and was zoned B-3, Highway and Arterial Business District. In 1976 the property was subdivided to facilitate development of warehousing, light industrial and commercial uses, creating a light industrial and business park in a B-3 Zone District. 2716 Thornberry was never developed and may have been previously used for outdoor storage.

The properties located north and south are zoned BP, Business Park, which allows a mixture of retail and industrial uses. Properties to the east are zoned B-3; however, many house light industrial uses, such as self-storage and the Industrial Plumbing and Heating Co to the west. The 2022 Comprehensive Plan identifies this area for light industrial uses for future development.

CHARACTER AND COMPATIBILITY WITH THE NEIGHBORHOOD:

Site Character: 2716 Thornberry Lane is undeveloped and surrounded by light industrial uses to the north, south and west.

Neighborhood Compatibility:	North	B-P, Business Park, developed with a metal warehouse Structure, that is intended for manufacturing uses.
	East	B-3, Business and Arterial, undeveloped.
	South	B-P, Business Park, developed with a multi-tenant metal structure that houses Receptus Elite Fitness Training.
	West	B-3, Business and Arterial, Industrial Plumbing Co.

Comprehensive Plan:

The area proposed to be rezoned is designated as Light Industry by the “Pueblo Regional Comprehensive Plan, 2022.” According to the Comprehensive Plan, the primary land uses for Light Industrial are research and development, manufacturing/processing, maintenance/repair shops, warehouse, and distribution.

The proposed rezoning to facilitate a contractor’s yard and future shop for the Industrial Plumbing Co. could be considered a maintenance/repair shop and warehouse.

ZONING AMENDMENT TEST

The standard for accepting an amendment to the zoning map is that the proposed zoning action must either:

- 1) Further the goals and objectives of the comprehensive land use plan, or
 - The rezoning to I-2, Light Industrial, furthers the goals and objectives of the comprehensive land use plan. This area is designated by the plan for light industrial uses and is not located within an Industrial High Visibility Area.
- 2) Show that the area has changed significantly since the adoption of the comprehensive land use plan
 - Not Applicable
- 3) Show that there was a mistake or error made in the original zoning of the property.

- Not Applicable

APPLICATION REQUIREMENT PER §17-6-1 OF THE PUEBLO MUNICIPAL CODE

The applicant's name and address and the name and address of any person, firm or corporation represented by such applicant in the application.

- The application contains the required information.

The interest of the applicant and the interest of the person, firm or corporation represented by the applicant, be it legal, sales development, operation, or other interest.

- The application contains the required information.

The nature of the amendment and a legal description of the property that would be affected by the amendment.

- The application contains the required information.

The nature of the amendment and a legal description of the property that would be affected by the amendment.

- The application contains the required information.

A statement of the facts which the applicant believes justify the amendment:

- The applicant stated that they are “rezoning to comply with future land use plan.”

A general description of the proposed development to the distance which will be affected; such description including subjects of environmental effect, economic effect, and traffic effect, if any; and such description carried out in scope and detail to the extent needed to support the requested amendment and as may be required by the Planning and Zoning Commission.

- The rezoning site is currently undeveloped, the proposed rezoning will facilitate development of a contractor’s yard and eventually an industrial structure.

A tentative site plan showing proposed structures, uses, open spaces, facilities for parking and loading and arrangements for pedestrian and vehicular circulation

- A zoning exhibit was provided.

A statement of the proposed time schedule for beginning and completion of development.

- Estimated start: March 2023
- Estimated completion: September 2023

A statement reasonably indicating the applicant's economic responsibility and capability of accomplishing the development for which a zoning amendment is requested.

- “Applicant plans on using the subject property in conjunction with the property to the west (Lot 1, Block 4, South Prairie Sub No. 2).

COMMISSION ACTION:

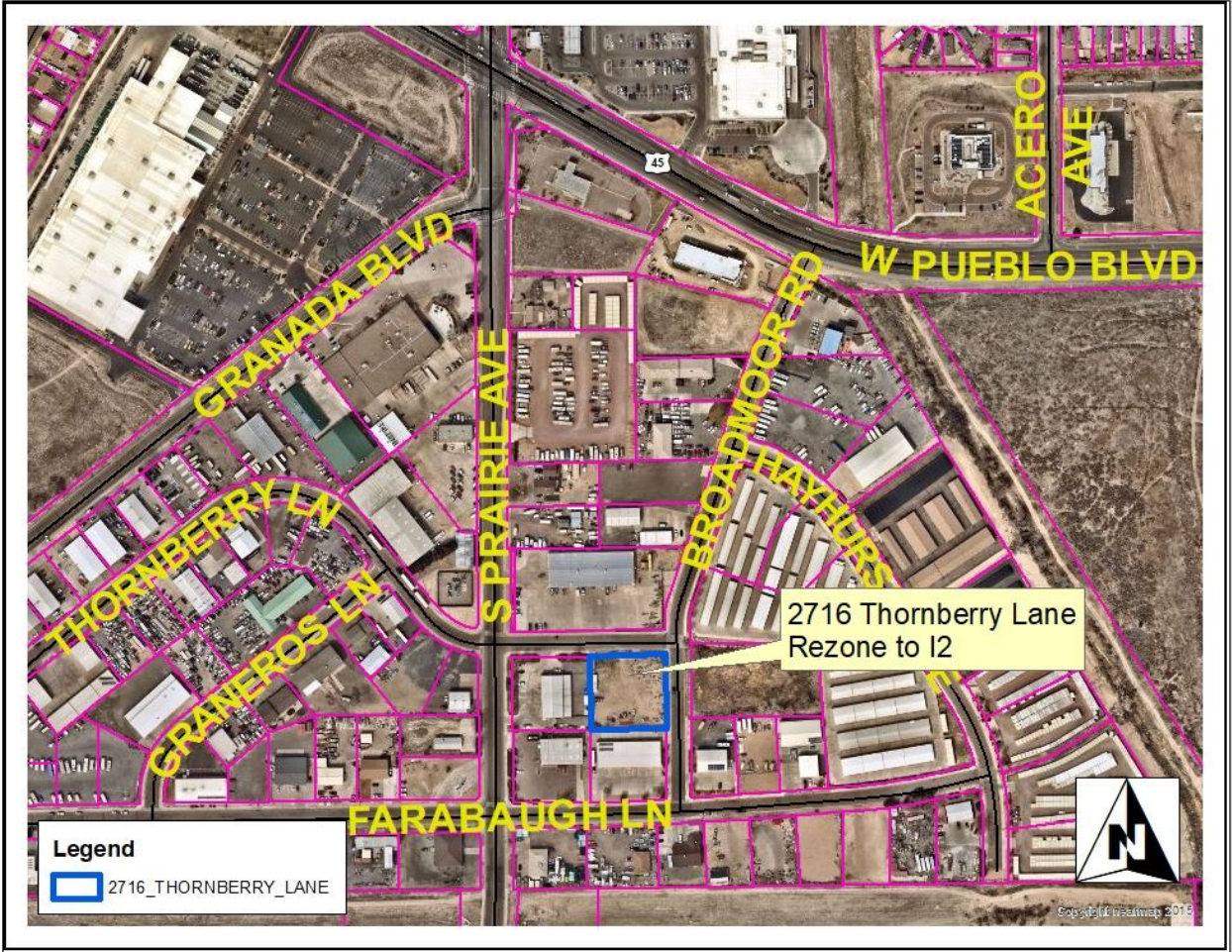
If the Planning and Zoning Commission finds the rezoning request furthers the goals and objectives of the Comprehensive Plan, a recommendation of approval to City Council is appropriate.

REFERRAL AGENCIES AND COMMENTS:

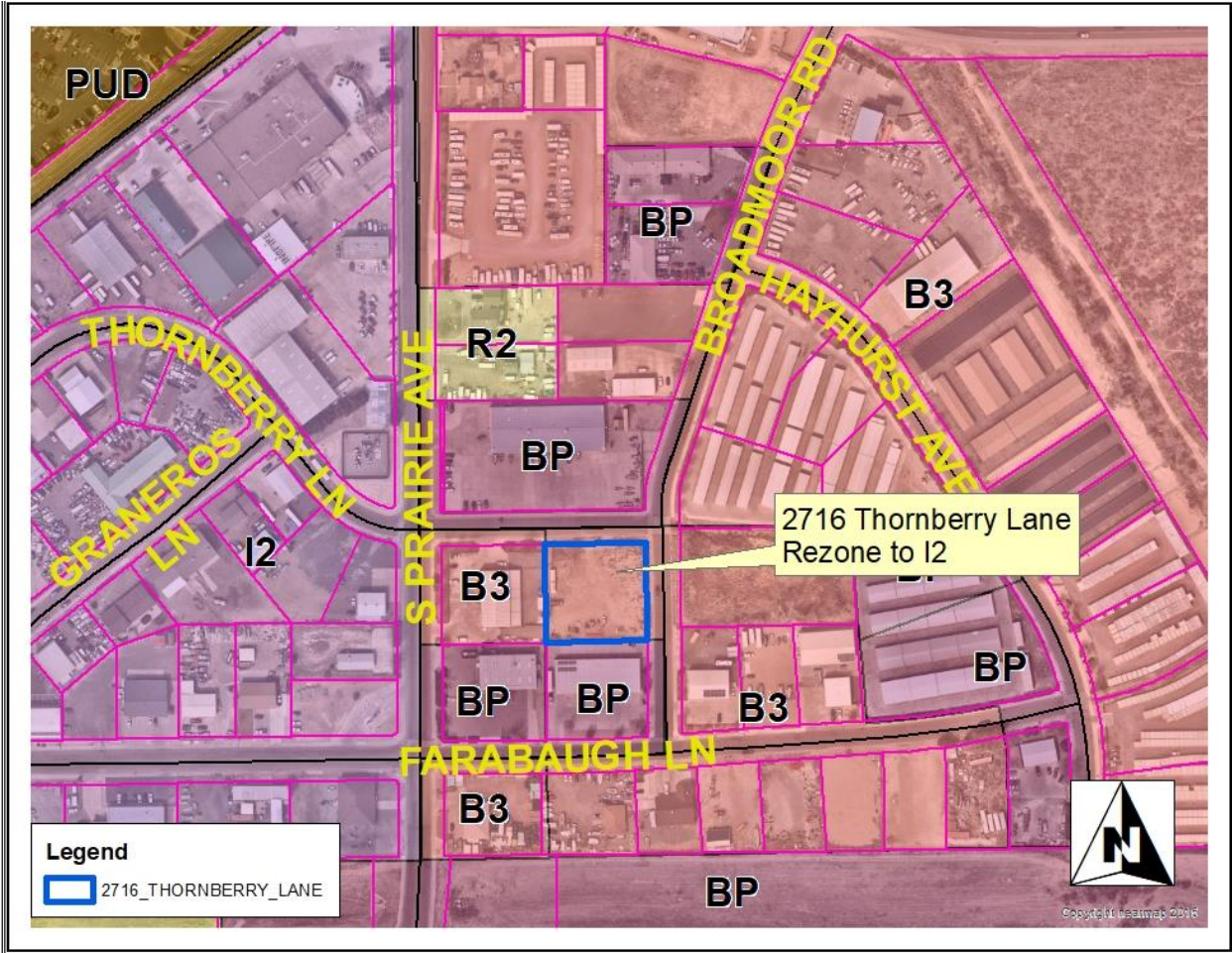
- City Public Works-No comment
- City Transportation-No comment
- City Law Department-No comment
- Pueblo Regional Building Department-No comment
- City Fire Department-No comment
- City Wastewater-No comment
- City Stormwater-No comment
- City Parks and Recreation Department-No comment
- Xcel Energy-No comment
- Black Hills Energy-No comment
- CDOT-No comment

ATTACHMENTS:

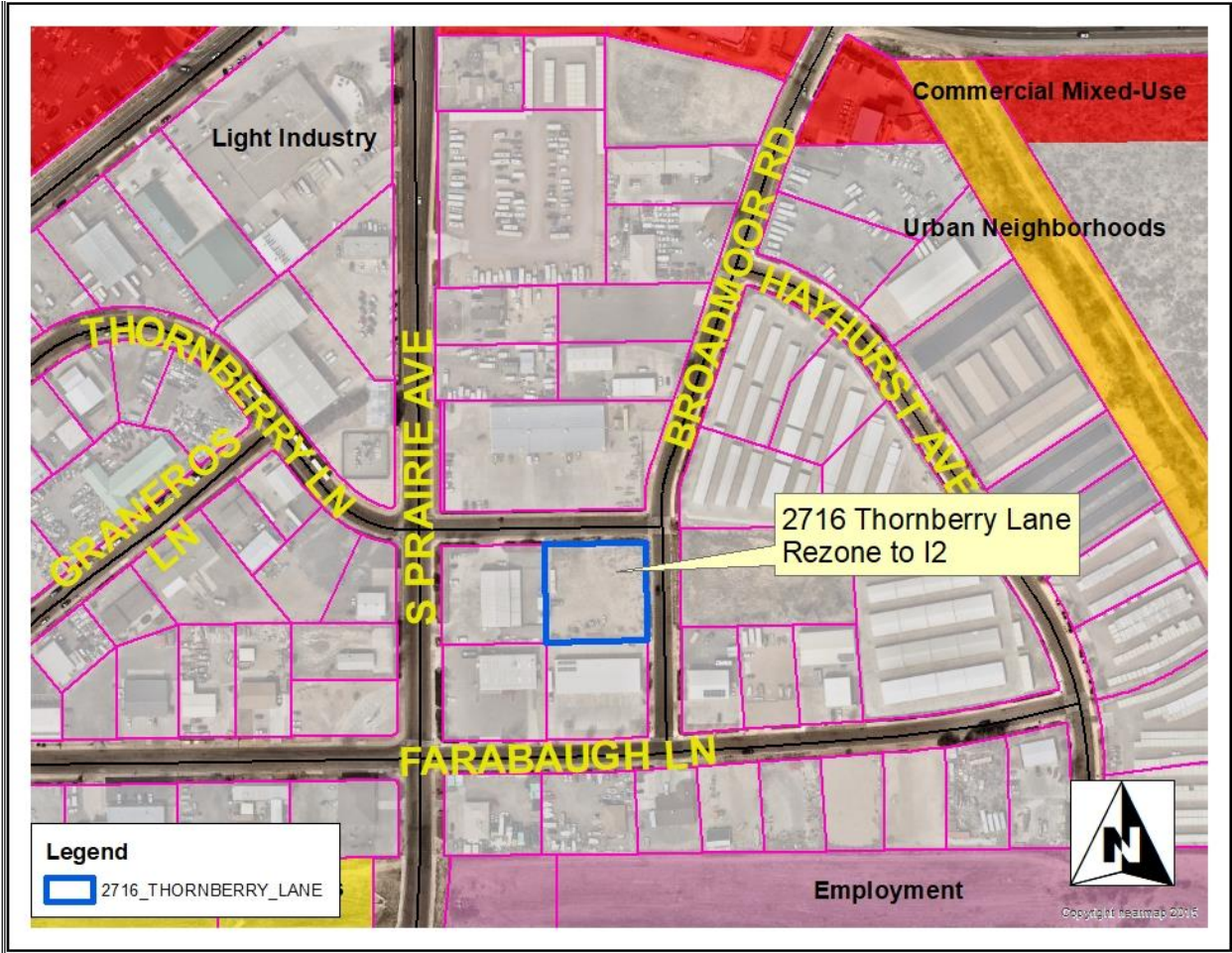
- A. Aerial Photograph
- B. Zoning Map
- C. Comprehensive Plan Map
- D. Site Photographs
- E. Zoning Exhibit and Application



A. Aerial



B. Zoning



C. Comprehensive Plan



D. Public Notice looking south from Thornberry Lane.



D. Site looking south from Thornberry Lane.



D. 3102 S. Prairie looking southeast from Thornberry Lane.

Planning & Zoning Map Amendment Application

Please type or print clearly. Illegible applications will not be accepted. Case #: _____

Property Owner

Name: Michael Trapp

Company: M3 Real Estate LLC

Address: 855 Broadview Pl., Colorado Springs, CO

Zip: 80904

Phone: (719) 499-1945

Email: miketrapp@olsonph.com

Applicant

Name: Michael Trapp

Company: M3 Real Estate LLC

Address: 855 Broadview Pl., Colorado Springs, CO

Zip: 80904

Phone: (719) 499-1945

Email: miketrapp@olsonph.com

Person of Firm Representing Owner or Applicant

Name: **Joseph V. Gagliano**

Company: **Gagliano Engineering, Inc.**

Address: **1740 Eagleridge Blvd. Suite 150, Pueblo, CO**

Zip: **81008**

Phone: **(719) 547-7073**

Email: **jvg@incasys.com**

The applicant will be the primary contact unless otherwise noted.

Project Location:

(address or general description) **2716 Thornberry Lane**

Legal Description: **Lot 4 Block 4 South Prairie Sub. Filing No. 2**

Subdivision: **South Prairie Sub. No. 2**

Acreage: **0.69**

Existing Zone District: **B-3**

Proposed Zone District: **I-2**

Purpose of this Application:

- ☒ To permit development of the property not allowed under the existing zone district.
- ☐ To provide proper zone district in conjunction with the subdivision plan for the area.
- ☐ In conjunction with the Annexation petition to annex the property in a use different than the existing Pueblo County Zoning.
- ☐ Other (specify): _____

(Continue Next Page)

(Continued from previous page)

Statement of Facts:

Justifying the zone change request. Be specific; use additional sheets if necessary.

Rezoning to comply with future land use plan (Employment Center - Light Industry Mixed)

Description of area surrounding proposed development:

Mixture of light industrial businesses and storage facilities. Surrounding zoning is B-P and I-2 with some remaining B-3

A general description of the proposed development to the distance which will be affected; such description including subjects of environmental effect, economic effect and traffic effect, if any; and such description carried out in scope and detail to the extent needed to support the requested amendment and as may be required by the Planning and Zoning Commission.

The proposed building and outdoor storage will be harmonious with the surrounding properties and have neutral effect on existing City services.



A tentative site plan showing proposed structures, uses, open spaces, facilities for parking and loading and arrangements for pedestrian and vehicular circulation.

Estimated date for beginning project: **March 2023**

Estimated date for completion of project: **September 2023**

A statement reasonably indicating the applicant's economic responsibility and capability of accomplishing the development for which a zoning amendment is requested.

Applicant plans on using the subject property in conjunction with the property to the west (Lot 1 Block 4 South Prairie Sub No. 2)



CD with DWF and DWG (Autocad) file of all plans and drawings & a PDF of all documents submitted. (if applicable)

By signing below, the Property Owner and Applicant are representing that each understands and agrees to the following terms:

1. Authorized personnel from the City of Pueblo, are hereby granted the right to enter the subject property for the purposes of reviewing and processing the application, including Certificate of Occupancy Inspections.
2. There are no known hazards or vicious animals present on the subject property.
3. All information contained in this application, is true and accurate to the best of my knowledge.
4. The City of Pueblo is under no obligation to approve the request contained in this application. No promises of approval are conveyed with the acceptance of this application.

Property Owner

Print Name: Michael Trapp

Signature:



Date: 12-15-2022

Applicant, if different from Property Owner

Print Name:

Signature:

Date:

Zoning Compliance (Completed by City Staff)

Application received by:

Date:

Application checked for completeness by:

Date:

Case Manager:

Fee Paid:

Hearing date:



Approved



Denied



Approved w/conditions

Office Use Only

ZONING EXHIBIT



ADDRESS:
2716 THORNBERRY LANE
PUEBLO, CO 81005

CURRENT ZONING:
ZONE DISTRICT: B-3

FUTURE LAND USE PLAN:
EMPLOYMENT CENTER – LIGHT INDUSTRY MIXED

LEGAL DESCRIPTION:
LOT 4 BLK 4 SOUTH PRAIRIE SUB 2ND

TAX SCHEDULE:
PARCEL #1514320004

LOT SIZE:
0.69 ± ACRES



ATTENTION!
REPRODUCTION OF THIS DRAWING
MAY HAVE CAUSED DISTORTION

REVISIONS		
#	Date	Comment
△	--	--

Gagliano Engineering, Inc. - (719) 547-7073

P.O. Box 2520

Pueblo, CO 81004

1740 Eagleridge Blvd. Suite #150

Pueblo, CO 81008

INDUSTRIAL PLUMBING AND HEATING

MAP AMENDMENT

2716 THORNBERRY LANE

PUEBLO, CO 81005

PROJECT NO.: 2022-212

DRAWN BY: jvg

CHECKED BY: jvg

SCALE: as shown

DRAWING NO.: 2022212Rezone.dwg

DATE: 12/13/22

SHEET NO.: MA-1

February 16, 2023

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **Michael Trapp** for approval of the following application:

Z-22-23 Rezoning: 2716 Thornberry Ln, approximately .69 acres to be rezoned from B-3, Highway and Arterial Business District to I-2, Light Industrial District. Generally located south of Thornberry Ln. and west of Broadmoor Rd.

The Planning and Zoning Commission meeting will be held on March 8, 2023, at 3:30 p.m., in City Council Chambers, 1 City Hall Place, Pueblo, CO or by Zoom: <https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGBnlCdHRrUHNFZnpPWGIYdz09>, Meeting ID: 927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston). You are welcome to attend this public hearing and express your viewpoint concerning this proposal. To review the plans and staff report for the proposed application, please visit www.pueblo.us/PandZ and click on “Most Recent Agenda” no sooner than the Friday prior to the hearing. **Please contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

February 16, 2023

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **Michael Trapp** for approval of the following application:

Z-22-23 Rezoning: 2716 Thornberry Ln, approximately .69 acres to be rezoned from B-3, Highway and Arterial Business District to I-2, Light Industrial District. Generally located south of Thornberry Ln. and west of Broadmoor Rd.

The Planning and Zoning Commission meeting will be held on March 8, 2023, at 3:30 p.m., in City Council Chambers, 1 City Hall Place, Pueblo, CO or by Zoom: <https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGBnlCdHRrUHNFZnpPWGIYdz09>, Meeting ID: 927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston). You are welcome to attend this public hearing and express your viewpoint concerning this proposal. To review the plans and staff report for the proposed application, please visit www.pueblo.us/PandZ and click on “Most Recent Agenda” no sooner than the Friday prior to the hearing. **Please contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

February 16, 2023

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **Michael Trapp** for approval of the following application:

Z-22-23 Rezoning: 2716 Thornberry Ln, approximately .69 acres to be rezoned from B-3, Highway and Arterial Business District to I-2, Light Industrial District. Generally located south of Thornberry Ln. and west of Broadmoor Rd.

The Planning and Zoning Commission meeting will be held on March 8, 2023, at 3:30 p.m., in City Council Chambers, 1 City Hall Place, Pueblo, CO or by Zoom: <https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGBnlCdHRrUHNFZnpPWGIYdz09>, Meeting ID: 927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston). You are welcome to attend this public hearing and express your viewpoint concerning this proposal. To review the plans and staff report for the proposed application, please visit www.pueblo.us/PandZ and click on “Most Recent Agenda” no sooner than the Friday prior to the hearing. **Please contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

February 16, 2023

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **Michael Trapp** for approval of the following application:

Z-22-23 Rezoning: 2716 Thornberry Ln, approximately .69 acres to be rezoned from B-3, Highway and Arterial Business District to I-2, Light Industrial District. Generally located south of Thornberry Ln. and west of Broadmoor Rd.

The Planning and Zoning Commission meeting will be held on March 8, 2023, at 3:30 p.m., in City Council Chambers, 1 City Hall Place, Pueblo, CO or by Zoom: <https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGBnlCdHRrUHNFZnpPWGIYdz09>, Meeting ID: 927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston). You are welcome to attend this public hearing and express your viewpoint concerning this proposal. To review the plans and staff report for the proposed application, please visit www.pueblo.us/PandZ and click on “Most Recent Agenda” no sooner than the Friday prior to the hearing. **Please contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

CASE NUMBER: Z-22-23

CERTIFICATION

I hereby certify that I did this day cause written notice of the public hearing on the proposed Zoning Map Amendment of the property located at 2716 Thornberry to be sent to the attached list of owners of the real property lying within three hundred (300) feet of the said property on which the Zoning Map Amendment is proposed by depositing the same properly addressed and postage paid in the post office, as set forth in the Code of Ordinances, Section 17-6-2.

February 16, 2023

(Date)

PUEBLO PLANNING & ZONING COMMISSION

By Cindy Caputo

I hereby certify that I did this day verify and photograph the posted notice of the public hearing on the Zoning Map Amendment of the property located at 2716 Thornberry, upon which action is pending as set forth in the Code of Ordinances, Section 17-6-2.

February 16, 2023

(Date)

PUEBLO PLANNING & ZONING COMMISSION

By B-G

Owner	OwnerStreet	OwnerCity	OwnerState	OwnerZip
RIEKENA ROGER A AND MARY REVOCABLE	106 ENCINO DR	PUEBLO	CO	81005-2910
M 3 REAL ESTATE LLC	121 W CUCHARRAS ST	COLORADO	CO	80903-3303
MALDONADO RONALD D/MALDONADO ELIZ	1611 KINGSROYAL BLVD	PUEBLO	CO	81005-2164
SKUL JOHN A/SKUL ELIZABETH A	22 DARTMOUTH AVE	PUEBLO	CO	81005-1756
O NEAL SUSAN C/O NEAL JAMES E JR/ + 351 PA	25101 RIDGE WAY	GOLDEN	CO	80401-9633
WOODWARD DELBERT REVOCABLE LIVING	2548 W WOLFENSBERGER I	CASTLE ROCK	CO	80109-9635
MUNIZ JUAN I/MUNIZ MARIA DEJESUS	2700 FARABAUGH LN	PUEBLO	CO	81004-5804
PUEBLO DIVERSIFIED INDUSTRIES	2828 GRANADA BLVD	PUEBLO	CO	81005-3104
BLOCK ROGER DALE	3000 S PRAIRIE AVE	PUEBLO	CO	81005-5106
D B R ENTERPRISES LLC	3130 BROADMOOR RD	PUEBLO	CO	81004-5842
BROADMOOR LLC	35 PASADENA DR	PUEBLO	CO	81005-2985
MICHELI BRAD/MICHELI JEANNETTE	4330 CARLILE AVE	PUEBLO	CO	81005-1003
4G FAMILY LIVING TRUST DATED JANUAR	445 YUCCA ST	PUEBLO	CO	81005-1034
WYATT AARON	46 STANFORD AVE	PUEBLO	CO	81005-1605
HAYWORTH EDWARD J	6135 STATE HWY 78	PUEBLO	CO	81005-9612
ACORN PETROLEUM INC	76 S SIERRA MADRE ST	COLORADO	CO	80903-3309
MASCARENAS ELI O JR/MASCARENAS KA	8 IRONWEED DR	PUEBLO	CO	81001-1016
M 3 REAL ESTATE LLC	855 BROADVIEW PL	COLORADO	CO	80904-1801
FIRST FARABAUGH RENTAL LLC	89 PURDUE ST	PUEBLO	CO	81005-1633
KM GARCIA PROPERTIES LLC	97 FORDHAM CIR	PUEBLO	CO	81005-1647
COCA COLA BOTTLING CO NEW YORK	PO BOX 1734	ATLANTA	GA	30301-1734



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: March 27, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Lisa Macchietto, Assistant City Attorney

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE CITY TO SELL AND ASSIGN CERTAIN LIENS ENCUMBERING REAL PROPERTY PURSUANT TO TITLE VII, CHAPTER 9 OF THE PUEBLO MUNICIPAL CODE, AND AUTHORIZING THE MAYOR TO EXECUTE ASSIGNMENTS OF LIEN

SUMMARY:

This Ordinance authorizes the City to publish notice and sell the liens identified in the included list by public auction.

PREVIOUS COUNCIL ACTION:

On April 17, 2021, Council approved Ordinance No. 9930, which created a Vacant Property Registration program that required properties that were not occupied for at least 30 days in a calendar year to register and pay a \$500 fee. Failure to register the property and pay the fee resulted in the imposition of a \$500 penalty.

On December 12, 2022, Council approved Ordinance No. 10325, as amended, which amended the Pueblo Municipal Code to include new provisions allowing assignment and foreclosure as collection remedies. It also added a new Chapter 9 to Title VII of the Code to establish a procedure for sale and assignment by public auction.

BACKGROUND:

Nuisance abatement costs and vacant property registration fees often are unpaid by owners of the affected real property parcels for long periods of time. As a result, liens are recorded with the County Clerk's office to secure the City's interest in collecting the debt. The City may collect that debt by any legal means, including sale and assignment of the liens or by pursuing a foreclosure action. Additionally, many of the properties affected by the City's municipal real property liens are blighted and harm the quality of life and property values of the neighborhoods in which they are found.

Pursuing sale and assignment of municipal liens that encumber real property will allow the public to bid to become assignees of the liens. Any buyer or assignee of the liens

may subsequently collect the debt secured by such lien, including interest and costs of collection, in any manner that was available to the City in their own name, subject to all claims and defenses and subject to the limitations and requirements of Title VII of the Pueblo Municipal Code. This remedy is desirable because it relieves the City from the burden of pursuing the collection activity. Moreover, it is likely to result in an assignee of the lien pursuing ownership of the property by foreclosure and rehabilitating nuisance and blighted properties to productive and positive ownership.

FINANCIAL IMPLICATIONS:

By pursuing sale and assignment as a collection remedy, the City will increase its collection rate resulting in fewer unpaid accounts and more timely collections.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance does not pass it will not be possible for the City to pursue sale and assignment of the identified liens by public auction as a collection remedy.

RECOMMENDATION:

Passage of the Ordinance.

ATTACHMENTS:

1. Assignment of Lien form - final

ORDINANCE NO. 10432

AN ORDINANCE APPROVING AND AUTHORIZING THE CITY TO SELL AND ASSIGN CERTAIN LIENS ENCUMBERING REAL PROPERTY PURSUANT TO TITLE VII, CHAPTER 9 OF THE PUEBLO MUNICIPAL CODE, AND AUTHORIZING THE MAYOR TO EXECUTE ASSIGNMENTS OF LIEN

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

SECTION 1.

The following list of municipal real property liens is hereby approved for collection by sale and assignment. The City is authorized to publish notice and pursue collection by public auction in accordance with Title VII, Chapter 9 of the Pueblo Municipal Code.

Encumbered Property Address	Lien Type	Lien Due	Amount
2907 2nd Ave., Pueblo, CO 81003	Weeds # 2302528 (2023)	\$446.99	
2907 2nd Ave., Pueblo, CO 81003	Litter # 2302529 (2023)	\$434.93	
2907 2nd Ave., Pueblo, CO 81003	Vacant Property # 2290754 (2022)	\$1,183.68	
2907 2nd Ave., Pueblo, CO 81003	Weeds # 2288822 (2022)	\$624.43	
2907 2nd Ave., Pueblo, CO 81003	Litter # 2288821 (2022)	\$527.53	
2907 2nd Ave., Pueblo, CO 81003	Board-Up # 2249318 (2021)	\$429.93	
2907 2nd Ave., Pueblo, CO 81003	Litter # 2249317 (2021)	\$434.08	
2907 2nd Ave., Pueblo, CO 81003	Weeds # 2249316 (2021)	\$954.20	
1124 W. 11th St., Pueblo, CO 81003	Vacant Property # 2288236 (2022)	\$1,200.84	
1627 E. 14th St., Pueblo, CO 81001	Vacant Property # 2293198 (2022)	\$1,187.79	
1606 E. 15th St., Pueblo, CO 81001	Vacant Property # 2286868 (2022)	\$1,201.12	
421 E. Beech St., Pueblo, CO 81003	Vacant Property # 2288835 (2022)	\$1,197.23	
811 E. C St., Pueblo, CO 81003	Vacant Property # 2285119 (2022)	\$1,207.23	
811 E. C St., Pueblo, CO 81003	Weeds # 2244127 (2021)	\$634.89	
3515 Gem Drive, Pueblo, CO 81005	Vacant Property # 2292195 (2022)	\$1,191.40	
911 N. Joplin Ave., Pueblo, CO 81001	Vacant Property # 2290763 (2022)	\$1,193.34	
511 N. Ogden Ave., Pueblo, CO 81001	Vacant Property # 2288234 (2022)	\$1,201.12	
701 Beulah Ave., Pueblo, CO 81004	Vacant Property # 2284451 (2022)	\$1,197.57	
701 Beulah Ave., Pueblo, CO 81004	Weeds # 2288809 (2022)	\$560.86	
701 Beulah Ave., Pueblo, CO 81004	Litter # 2288810 (2022)	\$563.31	
701 Beulah Ave., Pueblo, CO 81004	Weeds # 2293189 (2022)	\$447.01	
701 Beulah Ave., Pueblo, CO 81004	Weeds #2238217 (2021)	\$533.45	
701 Beulah Ave., Pueblo, CO 81004	Litter #2238216 (2021)	\$604.38	
701 Beulah Ave., Pueblo, CO 81004	Weeds #2249304 (2021)	\$481.36	

701 Beulah Ave., Pueblo, CO 81004	Litter #2249305 (2021)	\$416.88
2227 Pine St., Pueblo, CO 81004	Vacant Property # 2298028 (2022)	\$1,178.07
615 E. 1st St., Pueblo, CO 81001	Vacant Property # 2290758 (2022)	\$1,194.73
613 E. 1st St., Pueblo, CO 81001	Vacant Property # 2290757 (2022)	\$1,194.73
1606 W. 19th St., Pueblo, CO 81003	Vacant Property # 2282196 (2022)	\$1,214.73
1518 Pine St., Pueblo, CO 81004	Vacant Property # 2285109 (2022)	\$1,208.07
1306 E. River, Pueblo, CO 81001	Vacant Property # 2286865 (2022)	\$1,202.23
1105 W. 11th St., Pueblo, CO 81003	Vacant Property # 2294171 (2022)	\$1,185.57
521 Bellevue Place, Pueblo, CO 81004	Vacant Property # 2305309 (2022)	\$1,161.96

SECTION 2.

The Mayor of the City is hereby authorized to execute an Assignment of Lien for any such liens sold by auction to effectuate the intended transaction. The Assignment of Lien shall be in substantially the same form and content as the Assignment of Lien form hereto attached and incorporated.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the 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 March 27, 2023.

Final adoption of Ordinance by City Council on April 10, 2023.



 President of City Council

Action by the Mayor:

☒ Approved on April 12, 2023.

☐ 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

Lyssa
City Clerk

ASSIGNMENT OF LIEN ON REAL PROPERTY

This Assignment of Lien (the "Assignment") is made this _____ day of _____, 2023,

BETWEEN: The City of Pueblo, a Colorado Municipal corporation, of 1 City Hall Place, City of Pueblo, County of Pueblo, State of Colorado, herein referred to as "Assignor",

AND: (name of assignee)/a corporation organized and existing under the laws of (state), with its head office located at/of (address), City of (city), County of (county), State of (state), herein referred to as "Assignee".

RECITALS:

In consideration of (amount) Dollars (\$0.00), receipt of which is hereby acknowledged, Assignor does hereby assign to Assignee, without any warranty express or implied and without recourse, the Real Property Lien(s) on the property of (name of the property owner), located at (address) [or by legal description (Lot X)], Pueblo, Colorado, and by Assessor's Parcel No. (number), which has been duly recorded in the office of the Pueblo County Clerk and Recorder's Office, as follows:

Weed/Litter/Vacant Property Lien dated (X), recorded in Volume (number), Page (number), at Reception (number) on date (X), a copy of which is attached hereto; and

Weed/Litter/Vacant Property Lien dated (X), recorded in Volume (number), Page (number), at Reception (number) on date (X), a copy of which is attached hereto.

WHEREAS, the intent of this assignment is to transfer to Assignee full power to collect that certain sum secured by said lien(s), however, any costs incurred by the Assignee in enforcing the assigned lien(s), shall be borne solely by the Assignee.

IN WITNESS WHEREOF, the Assignor has executed this Assignment of Lien on the day and year first above written.

Nicholas Gradisar
Mayor of the City of Pueblo

COUNTY OF PUEBLO)
) ss.
STATE OF COLORADO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by Nicholas Gradisar, as Mayor of the City of Pueblo.

Witness my hand and official seal.

My commission expires: _____

Notary Public



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: March 27, 2023

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 FIXING THE MONTHLY SALARIES OF THE MEMBERS AND PRESIDENT OF THE CITY COUNCIL AT \$1,400 AND \$1,800 RESPECTIVELY

SUMMARY:

The attached proposed Ordinance increases the salary of the President of City Council from \$900 to \$1,800 per month and increases the salary of the other Members of City Council from \$700 to \$1,400 per month, effective January 1, 2024.

PREVIOUS COUNCIL ACTION:

The current monthly salaries of the President and Members of the Pueblo City Council were established on March 24, 1997, by Ordinance No 6182.

BACKGROUND:

According to the Federal Bureau of Labor Statistics, due to inflation, in 2023, a dollar buys roughly half (54%) of what it could in 1997.

As required by Sec. 2-1 of the City Charter, the monthly salary of the current President and Members of City Council enacting this Ordinance will not be increased during his or her current term of office.

FINANCIAL IMPLICATIONS:

There will be no fiscal impact to the current FY 2023 budget. The proposed ordinance takes effect on January 1, 2024.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Failure to adopt this Ordinance will result in the current salaries of the President and Members of City Council remaining unchanged.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE FIXING THE MONTHLY SALARIES OF THE
MEMBERS AND PRESIDENT OF THE CITY COUNCIL AT \$1,400
AND \$1,800 RESPECTIVELY

WHEREAS, the current monthly salaries of the President and Members of the Pueblo City Council were established on March 24, 1997, by Ordinance No 6182; and;

WHEREAS, WHEREAS, according to the Federal Bureau of Labor Statistics, due to inflation, in 2023, a dollar buys roughly half (54%) of what it could in 1997; NOW, THEREFORE,

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

SECTION 1.

Pursuant to Section 2-1 of the Charter of the City of Pueblo, a Colorado municipal corporation, the monthly salary of the President and Members of the Pueblo City Council are hereby fixed and established in the following amounts effective January 1, 2024:

President of City Council	\$1,800
Member of City Council	\$1,400

SECTION 2.

The monthly salary of the current President and Members of City Council enacting this Ordinance shall not be increased during his or her current term of office.

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 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 March 27, 2023.

Final adoption of Ordinance by City Council on April 10, 2023.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: March 27, 2023

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 THE SOUTHERN COLORADO HARM REDUCTION ASSOCIATION, 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 NINE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$975,000) 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 the Southern Colorado Harm Reduction Association, a Colorado nonprofit corporation ("SCHRA") to rehabilitate 219 W. Northern Ave., Pueblo, CO 81004 (the "Premises") for use as a behavioral health and community center (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 \$975,000 will be paid out of Project No. CI2113, the American Rescue Plan Act. The use of said funds shall be limited to expenditures to offset the costs for the rehabilitation, construction, development, engineering and architectural work for the Premises to operate as a behavioral health and community center.

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:

219 W. Northern Ave., Pueblo, CO 81004 is located in a Qualified Census Tract (QCT) in the City's Bessemer neighborhood. The building located on the Premises is currently vacant and abandoned and requires significant rehabilitation. Pursuant to U.S. Treasury ARPA Final Rule p. 134, ARPA funds may be spent to pay for "rehabilitation, renovation, maintenance, or costs to secure vacant or abandoned properties to reduce their negative impact."

The work of revitalizing 219 W. Northern Ave. shall proceed as follows:

- Phase I. Property renovation. Includes; entire flooring repair, electrical and plumbing installation, roof repair, window replacements, installation of refrigeration system, commercial kitchen set up, security systems, heating and cooling systems repair. Purchase of the insurance needed for the facility.
- Phase II. Purchase technology, food storage systems, academic resources. Contract and lease spaces to other organizations.
- Phase III. Open facility with a minimum of 8 services, programs and classes with food access for the Bessemer community.

Client data shall be collected by all participating organizations in the Unite Us platform.

The community center shall operate as a health, wellness, education, resource, and cultural hub for the Bessemer area with SCHRA acting as the coordinator of services brought into the community. SCHRA shall work toward developing place-based systems of care by leveraging partnerships to bring those systems to the Bessemer neighborhood. General service categories include:

- comprehensive supports around substance use prevention and recovery
- telehealth medicine
- crisis intervention
- life skills and job training for youth and adults
- wellness services such as yoga and meditation
- social resources such as transportation, food, and a space for community engagement

31 CFR 35.6 provides that capital expenditures has the same meaning given in 2 CFR 200.1. Under 31 CFR 35.3, capital assets means:

(1) Tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:

- i. Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, exchange,

- or through a lease accounted for as financed purchase under Government Accounting Standards Board (GASB) standards or a finance lease under Financial Accounting Standards Board (FASB) standards; and
- ii. Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance).

31 CFR 35.6(b)(3)(ii)(C) authorizes grants to nonprofits for construction and land acquisition purposes. 31 C.F.R. Part 35 implements section 9901 of ARPA and its amendments to the Social Security Act. Per 31 C.F.R. § 35.6(b)(3)(ii)(C), a recipient may use funds to respond to the public health emergency for certain enumerated eligible uses, including “Assistance to nonprofit organizations including programs, services, or *capital expenditures*, including loans or grants to mitigate financial hardship such as declines in revenues or increased costs, or technical assistance” (emphasis added). The definition of capital expenditures includes construction and improvements and land acquisition.

FINANCIAL IMPLICATIONS:

SCHRA will receive \$975,000 in ARPA funds from Project No.CI2113. The grant funds shall not be distributed in a lump sum. SCHRA shall provide the City with draw packages for the costs and expenses to rehabilitate the Premises, including construction materials, labor costs, payments to a general contractor and subcontractors and all other construction-related expenses.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could decide not to support SCHRA’s proposed community center.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Subrecipient Agreement between City and SCHRA

ORDINANCE NO.

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE SOUTHERN COLORADO HARM REDUCTION ASSOCIATION, 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 NINE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$975,000) 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; and

WHEREAS, under ARPA Section 603 (c)(1)(A) and (3) and the Final Rule 31 CFR 35.6(b)(7) recipients may use CLFR Funds to award grants to nonprofit organizations that are responding to the negative economic impacts of the COVID-19 public health emergency, NOW, THEREFORE,

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

SECTION 1.

The Subrecipient Agreement (“Agreement”) dated April 10, 2023, between the City of Pueblo, a Colorado municipal corporation and the Southern Colorado Harm Reduction Association, a Colorado nonprofit corporation, 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 \$975,000 are hereby authorized to be paid from Project No. CI2113 – American Rescue Plan Act, for purposes of rehabilitating 219 W. Northern Ave., Pueblo, CO 81004 for use as a behavioral health and community center.

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 March 27, 2023.

Final adoption of Ordinance by City Council on April 10, 2023.

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 10th day of April, 2023 (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and the Southern Colorado Harm Reduction Association, a Colorado nonprofit corporation, hereinafter referred to as the "Subrecipient" or "SCHRA." City and Subrecipient/SCHRA 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, under ARPA Section 603 (c)(1)(A) and (3) and the Final Rule 31 CFR 35.6(b)(7) recipients may use CLFR Funds to award grants to nonprofit organizations that are responding to the negative economic impacts of the COVID-19 public health emergency; and

WHEREAS, Subrecipient has requested that the City use CLRF Funds to rehabilitate 219 W. Northern Ave., Pueblo, CO 81004 for use as a behavioral health and community center (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) 219 W. Northern Ave., Pueblo, CO 81004 (the “Premises”) is located in a Qualified Census Tract (QCT”) in the City’s Bessemer neighborhood. The building located on the Premises is currently vacant and abandoned and requires significant rehabilitation.
- (b) Pursuant to U.S. Treasury ARPA Final Rule p. 134, ARPA funds may be spent to pay for “rehabilitation, renovation, maintenance, or costs to secure vacant or abandoned properties to reduce their negative impact.”
- (c) The pandemic has devastated an already vulnerable neighborhood in the Bessemer area. In addition to the virus, health disparities have significantly grown for adults and children. Problematic drug use is heavily influenced by social issues, such as poverty, low education attainment, chronic unemployment, homelessness, and mental and emotional responses to these social conditions and the Covid-19 pandemic. Social and structural determinants of health conducive to drug abuse play out in physical spaces of neighborhoods where drug abuse and fatalities are high and where historically oppressed people reside, specifically, people of color (POC). The drug abuse emerging from this type of environment impacts young people at alarming rates, leading to intergenerational health disparities. Ranking well within the top ten states, Colorado teens are 37.4% more likely to have used drugs in the last month than the average American teen due to poverty, unemployment, addiction, and lack of healthcare resources.
- (d) Experiences that arise from factors such as poverty, unemployment, and lack of access to food and quality education produce intergenerational trauma that manifests in psychological, emotional, and substance use disorders resulting in lower life expectancy. SCHRA’s vision is to change this environment using a Harm Reduction lens which will build upon and expand its scope of work to include a broader community approach. Co-founders, Judy Solano and Mike Nerenberg, M.D. have collectively led Pueblo toward an inclusive Harm Reduction vision, resulting in major expansion of treatment availability and resources for recovery, wellness and functionality.
- (e) Subrecipient envisions a safe, compassionate, clean environment for the Pueblo community, restored social and professional opportunities, a thriving space for people of color to share their culture and arts, and a life-changing place for youth. SCHRA will scale its Harm Reduction approach to offer services to the entire Bessemer neighborhood with a continued focus on health equity and racial justice. SCHRA's work will address the need for a community voice from POC, social and health resources, convening partnerships to

develop place-based systems, and professional/economic development.

- (f) SCHRA began operations in July, 2017. Subrecipient is a nonprofit in Pueblo providing services, support, and advocacy for people experiencing life disruptions due to substance use, mental health disorders, and incarceration. SCHRA also provides support for clients' loved ones and the communities affected by this epidemic.
- (g) Since its creation, SCHRA has provided unique benefits to Pueblo's marginalized communities through the following harm reduction programs:
 - Free Public Health Services, HIV/Hep C Testing, Vaccinations
 - Housing, food access, employment and education opportunities
 - Criminal Justice involved supports
 - Overdose Prevention, Naloxone and Fentanyl Testing Strips, Syringe Service Programs
 - Acudetox (Ear Acupuncture to decrease withdrawal symptoms)
 - Peer Support Services to coordinate needed resources
 - Direct pathways to healthcare partners, Urgent Care and MAT
 - Family and youth support and education
- (h) During the current fiscal year, SCHRA has provided:
 - 1,000 Pieces of cold weather supplies; coats, gloves, hats, hand warmers, tents, sleeping bags, blankets
 - 300 Hygiene kits
 - 1,000 + Food packages
 - 3,000 pieces of clothing from its clothing bank
 - Financial assistance with utilities, hotel stays and housing rental deposits
 - 1,500 bus passes
 - Naloxone kits and training to schools, businesses and health care providers
 - 3,000 Naloxone kits, 1,700 Fentanyl test strips
 - Narcan kits and training to schools, businesses and health care providers
 - Since 2017, 190,000 syringes disposed properly.
- (i) Subrecipient has recently purchased a 14,000 sq. ft. property in the heart of the Bessemer neighborhood located at 219 W. Northern Avenue near 1-25. This location will be the start of a revitalization of this once thriving community. This location will house some of the following programs,
 - Life skills training for youth and re-entering citizens. Telehealth urgent care services
 - Adult education

- Coordinated Entry System Access Point and yoga, meditation for youth and adults.
 - CRAFT (Community Reinforcement and Family Training); fresh food and a commodities access site
 - Case management services
 - Pro-Social education and activities for youth
 - Peer support
- (j) The work of revitalizing 219 W. Northern Ave., will be led by SCHRA Founder/CEO Judy Solano, supported by SCHRA's board of directors. Current staff and community partners already providing services at SCHRA's current location will expand and allow other agencies and organizations to be onsite at the new community center. The revitalization effort will proceed as follows:
- Phase I. Property renovation. Includes; entire flooring repair, electrical and plumbing installation, roof repair, window replacements, installation of refrigeration system, commercial kitchen set up, security systems, heating and cooling systems repair. Purchase of the insurance needed for the facility.
 - Phase II. Purchase technology, food storage systems, academic resources. Contract and lease spaces to other organizations.
 - Phase III. Open facility with a minimum of 8 services, programs and classes with food access for the Bessemer community.
- (k) Client data will be collected by all participating organizations in the Unite Us platform. Unite Us standardizes how health and social care providers communicate and track outcomes together. It aligns all stakeholders from healthcare, government, and the community around a shared goal to improve health. It is a proven infrastructure which provides both a person-centered care coordination platform and a hands-on community engagement process; it works hand-in-hand with the community to ensure services are seamlessly delivered to the people who need them most. This system is currently being utilized by SCHRA and several community-based organizations to communicate client needs to one another.
- (l) The proposed community center can be viewed as a health, wellness, education, resource, and cultural hub for the Bessemer area with SCHRA acting as the coordinator of services brought into the community. SCHRA continues to work toward developing place-based systems of care by leveraging partnerships to bring those systems to the Bessemer neighborhood. General service categories include:
- comprehensive supports around substance use prevention and recovery
 - telehealth medicine
 - crisis intervention
 - life skills and job training for youth and adults
 - wellness services such as yoga and meditation

- social resources such as transportation, food, and a space for community engagement
- (m) This Subrecipient Agreement presents an opportunity to use ARPA funds to address the negative economic impacts caused by COVID-19 that consequentially impact basic needs and the ability to access health resources. Prior to the pandemic, Bessemer was a struggling neighborhood. The effects of COVID-19 on this community, whether directly or indirectly, places it at greater need for support.
- (n) SCHRA continues its work as a trusted community leader to bring COVID-19 vaccinations to communities and people in Pueblo who have experienced difficulties with accessing the vaccine. One of the pillars of SCHRA's Harm Reduction approach is trust as evidenced in the power of grassroots campaigns to reach all community members. To date, SCHRA has partnered with several Pueblo agencies, including the Pueblo City-County Library District, to administer 5,127 COVID-19 vaccines. Recently, Health Colorado, Inc. contributed significant funding for SCHRA to continue this work. SCHRA's response to the pandemic is indicative of how SCHRA views its responsibilities to the Pueblo community as it continues to battle COVID-19 and its impacts that will unfold over many years. Creating a community center that provides comprehensive social and health solutions in Bessemer will counter the identified and yet to be identified impacts of COVID-19 in one of Pueblo's most under-resourced neighborhoods.
- (o) SCHRA leadership has purposefully developed a model of operation that collaborates with local and statewide entities. In many instances, SCHRA serves as the coordinator of services, bringing valuable supports to the people and neighborhoods that most need them. For example, SCHRA collaborates with Front Range Clinic to place a qualified staff at SCHRA's location within the Bessemer neighborhood to deliver Medication Assisted Treatment. SCHRA closely partners with Vivent Health, a Denver nonprofit experienced in prevention services, to offer HIV/HEP C testing and education, leading to the prevention and treatment of communicable diseases in Pueblo. SCHRA is the lead agency for the Pueblo Harm Reduction Project, a partnership between SCHRA, the Pueblo County Sheriff's Office, and the Pueblo Department of Public Health and Environment to deliver professional/personal development curriculum in the criminal justice system, transitional community wellness, harm reduction, and prevention supports. Under this project is a community-based component supported by the Colorado Health Foundation that focuses on job and personal skills development with underserved youth. The underserved youth SCHRA is impacting with the launch of the Neighborhood Harm Reduction Project is inspirational. Within this first cohort of 12 participants for the first part of 2021, Subrecipient is seeing young people go from not communicating with staff to talking about their hopes, dreams, and career goals. The opportunities this program brings to underserved youth will aid Pueblo's economic recovery from the COVID-19 pandemic.

- (p) Most recently, and as a result of Subrecipient's relationship with Health Colorado, Inc. (Pueblo's Regional Accountability Entity), SCHRA has welcomed the on-site and telemedicine services of Care on Location to its clients, connecting individuals and families who face barriers or stigma around accessing vital health and mental health support to these services. Care on Location provides a skilled clinician during SCHRA's Saturday safe syringe access and resource Saturdays to address physical health and mental health needs.
- (q) SCHRA continues to grow rapidly each year because of its many partnerships and diverse funding streams. Approximately 10% of SCHRA's resources come from individual contributions, including volunteer time and donations. Some of Subrecipient's funders include:
- Caring for Colorado
 - Colorado Department of Human Services (Office of Behavioral Health)
 - Colorado Department of Public Health and Environment
 - Colorado Health Foundation
 - Community Services Advisory Commission
 - Health Colorado, Inc.
 - Packard Foundation
 - United Way of Pueblo
- (r) The foundation and staff infrastructure for the proposed community center in Bessemer is strong. Many of the services that will be provided at the center are already happening on a smaller scale and for a specific population. SCHRA's plan to enhance and expand these services to the entire community is a goal which can be reached. SCHRA has doubled in capacity over the past two years. As the recipient of several grant funds, Subrecipient will continue to move toward a community-wide Harm Reduction model.
- (s) Harm Reduction recognizes addiction can be heavily influenced by social systems and environment and works to bring equitable health access and racial justice to those impacted by drug use. The pandemic has added another layer of obstacles that has increased drug use, the need for mental health supports, and other health and social service needs. The sustainability of these services is important to SCHRA, and Subrecipient will continue to leverage partnerships and funding resources to support the impact ARPA funds will bring to the Pueblo community.
- (t) 31 CFR 35.6 provides that capital expenditures has the same meaning given in 2 CFR 200.1. Under 31 CFR 35.3, capital assets means:
- (1) Tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:

- (i) Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, exchange, or through a lease accounted for as financed purchase under Government Accounting Standards Board (GASB) standards or a finance lease under Financial Accounting Standards Board (FASB) standards; and
- (ii) Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance).
- (u) 31 CFR 35.6(b)(3)(ii)(C) authorizes grants to nonprofits for construction and land acquisition purposes. 31 C.F.R. Part 35 implements section 9901 of ARPA and its amendments to the Social Security Act. Per 31 C.F.R. § 35.6(b)(3)(ii)(C), a recipient may use funds to respond to the public health emergency for certain enumerated eligible uses, including “Assistance to nonprofit organizations including programs, services, or capital expenditures, including loans or grants to mitigate financial hardship such as declines in revenues or increased costs, or technical assistance,” (emphasis added). The definition of capital expenditures includes construction and improvements and
- (v) This ARPA grant award is modeled after the State of Iowa’s “vertical infrastructure” program which provided up to \$3 million in ARPA funds, to nonprofits to offset the costs for the construction, acquisition, site development, engineering and architectural work for new and rehabilitated buildings from which nonprofit organizations would provide expanded services.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

- (a) Prior to receiving ARPA funds under this Agreement, Subrecipient is required to provide the City with the following information and documentation:
 - 1. Federal SAM Unique Entity ID;
 - 2. IRS designation as a 501(c)(3) nonprofit entity;
 - 3. Certificate of Good Standing from the Office of the Secretary of State;
 - 4. Documentation, in the form of grant awards or letters of commitment of grant awards, evidencing that Subrecipient has sufficient financial resources, in addition to this ARPA grant, to complete the Project.
- (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 Mayor shall be deemed the 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 Nine Hundred Seventy-Five Thousand Dollars (U.S. \$975,000.00). City shall make said funds available 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. The use of said funds shall be limited to expenditures to offset the costs for the rehabilitation, construction, development, engineering and architectural work for a rehabilitated building located at 219 W. Northern Ave. ("Premises") in the Bessemer neighborhood, from which the Subrecipient shall provide expanded services, as set forth in this Subrecipient Agreement. The grant funds shall not be distributed in a lump sum. Subrecipient shall provide the City with draw packages for the costs and expenses to rehabilitate the Premises, including construction materials, labor costs, payments to a general contractor and subcontractors and all other construction-related expenses.
- (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, 2026 unless sooner terminated as herein provided.
- (b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2026 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 City for convenience upon ten (10) days written notice to Subrecipient, 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. 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. Subrecipient further agrees to indemnify and save harmless the City, its officers, agents and employees, from and against all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property or based upon or arising out of the performance or nonperformance of this Agreement by Subrecipient or out of any violation by Subrecipient of any statute, ordinance, rule or regulation.

- (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. The City does not waive or intend 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 AGAINST CITY. 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.

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]

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:

- (1) Use CLRF Funds to rehabilitate 219 W. Northern Ave., Pueblo, CO 81004 for use as a behavioral health and community center.
- (2) The work of revitalizing 219 W. Northern Ave. shall proceed as follows:
 - Phase I. Property renovation. Includes; entire flooring repair, electrical and plumbing installation, roof repair, window replacements, installation of refrigeration system, commercial kitchen set up, security systems, heating and cooling systems repair. Purchase of the insurance needed for the facility.
 - Phase II. Purchase technology, food storage systems, academic resources. Contract and lease spaces to other organizations.
 - Phase III. Open facility with a minimum of 8 services, programs and classes with food access for the Bessemer community.
- (3) Client data shall be collected by all participating organizations in the Unite Us platform.
- (4) The community center shall operate as a health, wellness, education, resource, and cultural hub for the Bessemer area with SCHRA acting as the coordinator of services brought into the community. SCHRA shall work toward developing place-based systems of care by leveraging partnerships to bring those systems

to the Bessemer neighborhood. General service categories include:

- comprehensive supports around substance use prevention and recovery
- telehealth medicine
- crisis intervention
- life skills and job training for youth and adults
- wellness services such as yoga and meditation
- social resources such as transportation, food, and a space for community engagement

C. Budget \$975,000.

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 this Agreement 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: March 27, 2023

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 SECTIONS 11-1-401 AND 11-1-407 OF THE PUEBLO MUNICIPAL CODE TO ADD A MANDATORY MINIMUM JAIL SENTENCE FOR THOSE CONVICTED THEREOF, WHERE THE VALUE OF THE PROPERTY STOLEN IS THREE HUNDRED DOLLARS (\$300) OR MORE, AND TO AMEND SECTION 1-2-1 OF THE PUEBLO MUNICIPAL CODE TO ADD A MANDATORY MINIMUM JAIL SENTENCE FOR THOSE CONVICTED AS HABITUAL OFFENDERS HAVING VIOLATED SECTION 11-1-401 OR 11-1-407 OF THE CODE

SUMMARY:

Attached for consideration is a set of amendments that provide for a minimum mandatory jail sentence for those convicted of theft, theft from a merchant, or as a habitual offender for a theft-related offense. This action also provides for a sunset provision, allowing Council to extend the sentencing provisions to a later date or to allow the action to expire.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

City Council President Heather Graham requested the drafting of an ordinance providing for enhanced penalties for theft-related offenses. A similar enhanced-sentencing Ordinance was passed in 2022 by the City Council of Aurora in an effort to curb crime in that city.

According to the records of the Pueblo Police Department, 283 persons were cited in 2021 and 460 persons were cited in 2022 for Theft From a Merchant under Sec. 11-1-401 of the Pueblo Municipal Code. This constitutes a 62.54% increase in cited Theft from a Merchant cases. Additionally, 29 persons were cited for Theft in 2021 and 39 persons were cited for Theft in 2022 under Sec. 11-1-407 of the Pueblo Municipal Code. This constitutes a 34.48% increase in cited Theft cases.

According to statistics from the Colorado Bureau of Investigation with respect to the City of Pueblo, in 2022 there were 4,201 thefts reported overall. In 2021, 3,841 thefts were reported overall. Year over year, this constitutes an 9.37% increase in reported thefts.

Given the significant increase in theft-related crimes within the City of Pueblo, the ordinance attached for your consideration attempts to provide a deterrent effect. The ordinance is directed to those thefts of property valued at \$300 or more and for those thefts committed by habitual offenders as defined by the Code.

FINANCIAL IMPLICATIONS:

The financial implications are unknown at this time. The Pueblo Police Department does not track thefts under the Code by value nor does the Code have a current value provision within it. It is also unknown ultimately how many Defendants may be convicted under the proposed provisions and subject to the enhanced penalties. The Pueblo County Sheriff's Office currently charges \$45 per day per City inmate and the Las Animas County Sheriff's Office charges \$55 per day per City inmate.

Additionally, more Defendants may choose to challenge the charges and thereby increase attorney representation and jury trial costs to the Municipal Court. The Court may see an offset, however, if less thefts are committed by those subject to the new provisions.

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 current Code provisions will remain in place.

RECOMMENDATION:

City Council President Graham supports passage of this Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10433

AN ORDINANCE AMENDING SECTIONS 11-1-401 AND 11-1-407 OF THE PUEBLO MUNICIPAL CODE TO ADD A MANDATORY MINIMUM JAIL SENTENCE FOR THOSE CONVICTED THEREOF, WHERE THE VALUE OF THE PROPERTY STOLEN IS THREE HUNDRED DOLLARS (\$300) OR MORE, AND TO AMEND SECTION 1-2-1 OF THE PUEBLO MUNICIPAL CODE TO ADD A MANDATORY MINIMUM JAIL SENTENCE FOR THOSE CONVICTED AS HABITUAL OFFENDERS HAVING VIOLATED SECTION 11-1-401 OR 11-1-407 OF THE CODE

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

SECTION 1.

Section 11-1-401 of Chapter 1 of Title XI of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 11-1-401. – Theft from a merchant.

(a) It shall be unlawful for any person to obtain or exercise control over any meals, goods, services or accommodations having a value of less than two thousand dollars (\$2,000.00) which are the property of another exposed or available for sale or available to rent or for hire, with the intent to convert the same to his or her own use without payment of the purchase price or rent therefor.

(b) Theft from a merchant is a Class 2 municipal offense.

(c) Notwithstanding the provisions of any other subsection within this Section, theft from a merchant is a Class 1 offense if the value of the meals, goods, services, or accommodations involved is three hundred dollars (\$300.00) or more. Additionally, if the value of the meals, goods, services, or accommodations involved is three hundred dollars or more, a mandatory minimum jail sentence of no less than three (3) days shall be imposed by the Court as part of any sentence. The Court shall neither set aside nor suspend the mandatory minimum jail portion of any sentence imposed. This subsection shall only apply to those offenders who, at the time of the offense, were eighteen (18) years of age or older.

SECTION 2.

Section 11-1-407 of Chapter 1 of Title XI of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 11-1-407. – Theft.

(a) It shall be unlawful and a Class 2 municipal offense for any person to knowingly obtain or exercise control over any thing of value of another without authorization and with the intent to permanently deprive the other person of the use or benefit of the thing of value; provided, however, that this Section shall have no application:

1. Where the thing of value has a value of two thousand (\$2,000.00) or more or is intangible personal property;

2. Where the other person (victim) is seventy (70) years of age or older and the offense is committed in such person's presence; or
3. Where the other person (victim) is disabled because of the loss or permanent loss of use of a hand or foot or because of blindness or the permanent impairment of vision in both eyes to such a degree as to constitute virtual blindness and the offense is committed in such person's presence.

(b) Notwithstanding the provisions of subsection (a) within this Section, it shall be unlawful and a Class 1 municipal offense for any person to knowingly obtain or exercise control over anything of another valued at three hundred dollars (\$300.00) or more without authorization and with the intent to permanently deprive the other person of the use or benefit of the thing of value; provided however, that this subsection will have no application as provided in subsections (a)(1), (a)(2), and (a)(3). Additionally, if the value of the thing involved is three hundred dollars or more, a mandatory minimum jail sentence of no less than three (3) days shall be imposed by the Court as part of any sentence. The Court shall neither set aside nor suspend the mandatory minimum jail portion of any sentence imposed. This subsection shall only apply to those offenders who, at the time of the offense, were eighteen (18) years of age or older.

SECTION 3.

Section 1-2-1 of Chapter 2 of Title I of the Pueblo Municipal Code is hereby amended to read as follows:

Section 1-2-1. – General Penalty; continuing violations; adjudging fines and imprisonment.

(a) It shall be unlawful for any person to violate, disobey, omit, neglect, refuse or fail to comply with or resist the enforcement of any provision of this Code or any secondary code adopted herein.

(b) Where no specific penalty is provided therefor, the violation of any provision of this Code or of any secondary code adopted herein shall be a Class 2 municipal offense and be punished by a fine not exceeding one thousand dollars (\$1,000.00), the amount of such fine to rest within the discretion of the Municipal Judge.

(c) **Unless stated otherwise within the Municipal Code,** the Municipal Judge may, in his or her discretion, impose alternative sentencing including but not limited to in-home detention not to exceed three hundred sixty-four (364) days, probation, community service, deferred sentence, deferred prosecution, rehabilitation and educational classes, for any violations of the Municipal Code if he or she determines the alternative sentencing will best serve the intent and purpose of the Municipal Code.

(d) The imposition of a penalty shall not excuse any violation, permit it to continue or prevent the enforced removal of prohibited conditions.

(e) Unless otherwise indicated, a separate violation shall be deemed committed upon each day or portion thereof during or on which any violation of any provision of this Code or any secondary code adopted herein occurs or continues.

(f) The amount by which any imposed fine exceeds three hundred dollars (\$300.00) is dedicated to graffiti control and removal and other law enforcement activities as determined by the City Council. Other law enforcement activities shall include any and all alternative sentencing authorized pursuant to Subsection 1-2-1(c).

(g) Every person convicted in the City of any municipal offense, when within five (5) years of the date of the commission of said offense has been twice previously convicted of the same offense, separately brought and adjudicated and arising out of separate and distinct criminal episodes in the City, shall be adjudged a habitual offender and shall be punished:

1. As a Class 1 municipal offender and the standard base fine for the offense shall be tripled, provided that the fine may be altered at the Court's discretion, but shall not exceed one thousand dollars (\$1,000.00); **and**

A. In the event the instant conviction is for Theft from a merchant as provided for in Sec. 11-1-401 or for Theft as provided for in Sec. 11-1-407 of this Code, and, at the time of the offense, the offender was eighteen (18) years of age or older, a mandatory minimum jail sentence of no less than three (3) days shall be imposed by the Court as part of any sentence. The Court shall neither set aside nor suspend the mandatory minimum jail portion of any sentence imposed; or

2. For those convicted of a traffic code violation, the standard base fine for the civil infraction shall be tripled, provided that the fine may be altered at the Court's discretion, but shall not exceed one thousand dollars (\$1,000.00).

(h) Every person convicted in the City of any municipal crime involving violence against another person or animal, when within ten (10) years of the date of the commission of the offense has been twice previously convicted upon similar charges involving violence, separately brought and adjudicated and arising out of separate and distinct criminal episodes in the City, shall be adjudged a habitual criminal and shall be punished as a Class 1 municipal offender.

(i) Any person convicted of a crime and sentenced as a habitual offender for violations of Sections 11-4-14 (Dangerous animals; potentially dangerous animals), 11-4-15 (Restraining), or 11-4-21 (Cruelty to animals; humane care) may, at the discretion of the Municipal Court, be enjoined from owning any animals as defined by Section 11-4-1 of the Pueblo Municipal Code, or otherwise maintaining any animals on their property within the City limits, for up to one (1) year, along with any other appropriate penalty imposed by the Municipal Court.

SECTION 4.

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 5.

This Ordinance shall become effective thirty (30) days after final action by the Mayor and City Council and shall be automatically repealed effective January 1, 2025. Such repeal shall reinstate the sections of the Pueblo Municipal Code as amended hereby as the same existed on March 1, 2023. Nothing contained herein shall be construed to prohibit any subsequent enactments with respect to the affected sections of the Pueblo Municipal Code to be amended further between the effective date and date of repeal.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on March 27, 2023.

Final adoption of Ordinance by City Council on April 10, 2023.



President of City Council

Action by the Mayor:

☒ Approved on April 12, 2023.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

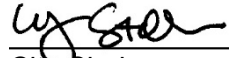
☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: April 10, 2023

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 EMERGENCY ORDINANCE TRANSFERRING \$55,000 FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND TO PROJECT NO. PL1801 - DILLON FLYOVER BRIDGE ART PROJECT, AND BUDGETING AND APPROPRIATING \$55,000 FOR SAID PROJECT

SUMMARY:

This Ordinance transfers \$55,000.00 from the 2023 fund balance of the General Fund, and budgets and appropriates said funds into Project No. PL1801 - Dillon Flyover Bridge Art Project for the completion of remaining construction activities on the Gateway to the Southwest project.

PREVIOUS COUNCIL ACTION:

Ordinance No. 9229, passed by the City Council on February 12, 2018, established Project No. PL1801 - Dillon Flyover Bridge Art Project and transferred, budgeted, and appropriated \$130,000.00 for the project.

Resolution No. 14007, passed by the City Council on July 9, 2018, approved the award of a Public Art Services Agreement (Bid No. 17-065) with Kenneth T. Williams, dated July 9, 2018, to design and construct the Gateway to the Southwest Art project with a maximum contract value of \$600,000.00.

Resolution No. 14598, passed by the City Council on April 26, 2021, approved Amendment No. 1 to the Public Art Services Agreement with Kenneth T. Williams, dated April 26, 2021, to add the fabrication and installation of replica monuments on public property located along Central Main Street in Downtown Pueblo at a cost of \$22,000.00.

Multiple ordinances have been passed by the City Council since 2018, accepting public and private financial contributions toward the project. In total, \$960,070.00 of public and private contributions have been accepted, budgeted and appropriated through the

passage of Ordinance Nos. 9209, 9229, 9408, 9445, 9489, 9541, 9552, 9664, 9688, 9871, and 10075.

BACKGROUND:

Kenneth Williams (Williams Studios) completed the design of the Gateway to the Southwest Monument project and the construction of the monument in the easternmost roundabout under the initial contract award in 2018. At the time the contract was awarded, sufficient funding to complete the second half of the project was not made available, so work on the second (westernmost) monument did not begin. Since that time, additional funds have been provided by various public and private entities to cover the unmet project costs. Over the past few years, construction prices have continued to rise and a funding shortfall in the amount of \$49,513.00, which prevents the completion of the project. If approved, this Ordinance would transfer, budget, and appropriate \$55,000.00 to Project No. PL1801, covering the remaining project costs and providing a small contingency set aside in the amount of \$5,487.00 for any minor unforeseen project expenses.

FINANCIAL IMPLICATIONS:

This Ordinance will transfer \$55,000.00 from the General Fund Unappropriated Fund Balance and budget and appropriate that amount to Project No. PL1801.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Failure to pass this Ordinance will preclude the City from providing the remaining funds required to complete the Gateway to the Southwest project.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10434

AN EMERGENCY ORDINANCE TRANSFERRING \$55,000 FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND TO PROJECT NO. PL1801 - DILLON FLYOVER BRIDGE ART PROJECT, AND BUDGETING AND APPROPRIATING \$55,000 FOR SAID PROJECT

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

SECTION 1.

Funds in the amount of \$55,000.00 are hereby transferred from the 2023 unappropriated fund balance of the General Fund, and budgeted and appropriated into Project No. PL1801 - Dillon Flyover Bridge Art Project.

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.

Savings Clause: The immediate enactment of this Ordinance is necessary for the immediate preservation or protection of public health, property or safety. Specifically, there exists an urgent need for a timely completion of the project to avoid conflicts with an adjacent construction project managed by the Colorado Department of Transportation (CDOT) at the Dillon Drive/I-25 interchange that is scheduled to begin before summer 2023. Failure to complete the Dillon Flyover Bridge Art Project before CDOT begins its project will cause delays which would result in significant additional expense to the City of Pueblo for completion of the project. 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 April 10, 2023.

Final adoption of Ordinance by City Council on April 10, 2023.



President of City Council

Action by the Mayor:

- ☒ Approved on April 12, 2023.
- ☐ 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

Lyssa
City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 10, 2023

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 ESTABLISHING PROJECT NO. CI2318 – LAND PURCHASE TO EXPAND HARP PROJECT AND TRANSFERRING ONE MILLION TWO HUNDRED THOUSAND THREE HUNDRED THIRTEEN DOLLARS (\$1,200,313.00) AND RELATED CLOSING COSTS FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND TO PROJECT NO. CI2318 FOR PURPOSES OF PURCHASING APPROXIMATELY 2.06 ACRES OF IMPROVED LAND LATED AT 175 S. SANTA FE AVENUE AND 131 S. MECHANIC STREET, PUEBLO, CO 81003 FOR THE EXPANSION OF THE HISTORIC ARKANSAS RIVER PROJECT

SUMMARY:

This Ordinance establishes Project No. CI-2318 and authorizes the transfer of \$1,200,313.00 and related closing expenses from the unappropriated Fund Balance of the General Fund to said project for purposes of purchasing improved land for the expansion of the Historic Arkansas River Project ("HARP").

PREVIOUS COUNCIL ACTION:

On January 11, 2021, by Ordinance No. 9866, City Council approved the acquisition of 175 S. Santa Fe Avenue and 131 S. Mechanic Street, by purchase or condemnation, for purposes of expanding HARP. The City subsequently sent the owner of said properties a formal notice of its intent to acquire the properties by eminent domain.

On May 17, 2021, by Ordinance No. 9927, City Council approved and authorized the Mayor to sign the following two (2) agreements with Ferguson Enterprises, LLC, a Virginia limited liability company ("Ferguson"):

- Contract for the City to purchase approximately 2.06 acres of improved land located at 175 S. Santa Fe Avenue, Pueblo, CO 81003 (Parcel No. 05-364-26-004) and 131 S. Mechanic Street, Pueblo, CO 81003 (Parcel No. 05-364-25-

- 003) (the “Property”); and
- A Lease Agreement for the City to lease back a portion of the Property to Ferguson.

Both the contract to buy and sell the Property and the lease were signed by Ferguson on May 27, 2021.

BACKGROUND:

Acquisition of the Property is necessary for the expansion of HARP. Schematic designs for HARP expansion to the east, extending the channel to Santa Fe Avenue have been completed. Additional parking spaces are also needed near the HARP Riverwalk to accommodate the thousands of local residents and tourists who use and enjoy the river walk each year. The HARP channel extension to Santa Fe Avenue and the construction of an adjacent parking lot (“HARP Expansion Project”) require private land acquisition. The land necessary for the HARP Expansion Project has a fair market value of \$1,120,000.00, according to an appraisal obtained by the City from John M. Anderson, Certified General Appraiser.

On September 14, 2014, the Pueblo Urban Renewal Authority (“PURA”) leased 209 S. Santa Fe Avenue, Pueblo, CO 81003 (Parcel No. 53-642-6005) which is adjacent to the Property, to Ferguson. The lease was recorded in the records of the Pueblo County Clerk and Recorder on September 18, 2014 at Reception No. 1985225. PURA subsequently quitclaimed 209 S. Santa Fe Ave. to the City by a Quit Claim Deed dated June 28, 2021 which was recorded in the records of the Pueblo County Clerk and Recorder on July 6, 2021 at Reception No. 2233654. The May 10, 2021 buy/sell contract between the City and Ferguson also required Ferguson to assign to the City, by quit claim deed, all of Ferguson’s right, title and interest in 209 S. Santa Fe Ave. including, but not limited to, those conferred by the 09/14/14 lease.

Ferguson was reluctant to sell 175 S. Santa Fe Ave. (Parcel No. 05-364-26-004) and 131 S. Mechanic St. (Parcel No. 05-364-25-003) to the City and to quit claim 209 S. Santa Fe Ave. (Parcel No. 53-642-6005). In addition to receiving \$1,120,000.00, Ferguson requested that the City pay its relocation expenses of \$1,100,000.00. In order to avoid condemnation and the payment of relocation expenses, the City and Ferguson negotiated a compromise in which the City agreed to pay an additional \$80,000.00 to purchase 175 S. Santa Fe Ave. and 131 S. Mechanic St. and to have Ferguson assign its lease rights to 209 S. Santa Fe Ave.

The Closing Date for the purchase transactions was scheduled for October 7, 2021. Although Ferguson would be paid \$1.2 million at closing, Ferguson requested that the closing date be continued. Numerous subsequent attempts by the City to reschedule the closing date were rebuffed by Ferguson. On March 7, 2023, the City notified Ferguson that if the closing did not occur within 30 days, the City would begin condemnation proceedings. In an email to the City, on March 8, 2023, Ferguson stated that it delayed the closing “because our relocation space was not yet ready and construction projects have been taking much longer than usual due to supply chain issues, etc.” Ferguson has now agreed to an April 11, 2023 Closing Date.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$1,200,313.00 and related closing expenses shall be transferred from the unappropriated fund balance of the general fund into Project No. CI-2318.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could choose not to fund the purchase of the parcels needed for the HARP expansion.

RECOMMENDATION:

Approval of this Ordinance

ATTACHMENTS:

None

ORDINANCE NO. 10435

AN EMERGENCY ORDINANCE ESTABLISHING PROJECT NO. CI2318 – LAND PURCHASE TO EXPAND HARP PROJECT AND TRANSFERRING ONE MILLION TWO HUNDRED THOUSAND THREE HUNDRED THIRTEEN DOLLARS (\$1,200,313.00) AND RELATED CLOSING COSTS FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND TO PROJECT NO. CI2318 FOR PURPOSES OF PURCHASING APPROXIMATELY 2.06 ACRES OF IMPROVED LAND LATED AT 175 S. SANTA FE AVENUE AND 131 S. MECHANIC STREET, PUEBLO, CO 81003 FOR THE EXPANSION OF THE HISTORIC ARKANSAS RIVER PROJECT

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

SECTION 1.

Project Number CI-2318 – Land Purchase to Expand HARP Project is hereby established.

SECTION 2.

Funds in the amount of \$1,200,313.00 and related closing expenses are hereby authorized to be transferred from the unappropriated Fund Balance of the General Fund into Project No. CI-2318.

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.

Savings Clause: Failure to approve this Ordinance on an emergency basis will further delay the long-awaited closing (scheduled for April 11, 2023) of the real estate transactions which are necessary for the expansion of the Historic Arkansas River Project ("HARP"). In addition, the City has begun the process of subdividing the Property and the City's subdivision application is pending before the City's Planning and Zoning Commission. 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 March 27, 2023.

Final adoption of Ordinance by City Council on April 10, 2023.



President of City Council

Action by the Mayor:

☒ Approved on April 12, 2023.

☐ Disapproved on _____ based on the following objections:



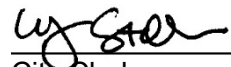
Mayor

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