



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

**MONDAY, JUNE 26, 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 Rob Reyes, Praise Assembly

**C. PLEDGE OF ALLEGIANCE**

**D. ROLL CALL**

**E. SPECIAL RECOGNITIONS**

E1 Proclamation Presentation: "Parks and Recreation Month: July 2023" - Tamara Moore, Parks Recreation Supervisor and Steven Meier, Director of Parks & Recreation

**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 June 12, 2023, as distributed.*

J1 Minutes from the meeting of June 12, 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**

**M. RESOLUTIONS**

- M1 A Resolution awarding a construction contract in the amount of \$264,942.00 to Cedar Ridge Landscape, Inc., for Project No. 23-088, Concrete Improvements - Northern Avenue Phase 2, setting forth \$39,741 for contingencies, and authorizing the Purchasing Agent to execute same
- M2 A Resolution ratifying an emergency construction contract in the amount of \$167,777.96 with K.R. Swerdfeger Construction, Inc., for Emergency Storm sewer point repair and \$43,062.31 for Emergency Sanitary sewer point repair on Court Street between 8th Street and 9th Street, Project No. 20-019 (SW1501) and Project No. 20-059 (WWAN03) and approving the purchasing agent's execution of the same
- M3 A Resolution awarding a construction contract in the amount of \$104,718 to Tony J Beltramo & Sons, Inc., for Project No. 23-094, Asphalt Improvements - South Prairie Avenue (Farabaugh to Prairie Hawk), setting forth \$15,708 for contingencies, and authorizing the Purchasing Agent to execute same
- M4 A Resolution awarding a construction contract in the amount of \$102,755.34 to American Dirt Contractors LLC., for Project No. 23-071, Elmwood Golf Course Cart Path - Phase 4, setting forth \$4,330.66 for contingencies, and authorizing the Purchasing Agent to execute same
- M5 A Resolution authorizing payment in the amount of \$47,946.00 from Project CI2113 - American Rescue Plan Act for the purchase of bleachers - Stauter Field as a government project as authorized by Section 603(C)(1) of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6
- M6 A Resolution authorizing payment in the amount of \$45,000 from Project CI2113 - American Rescue Plan Act for Skateboard Park Improvements as a government project as authorized by Section 603(C)(1) of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6
- M7 A Resolution transferring \$15,000.00 from Project No. CD2018 into Project No. CD2112 Sunny Side Neighborhood Improvements for infrastructure at Sage Street and Windy Way.
- M8 A Resolution approving Amendment No. 2 to the agreement for professional consulting services between The City of Pueblo, a Municipal Corporation, and AECOM Technical Services, Inc., in the amount of \$25,294.50 for 21-071, Stormwater Department Engineer of Record – West 29<sup>th</sup> Drainage Improvements, and authorizing the purchasing agent to execute same
- M9 A Resolution authorizing the issuance of a revocable permit (REV-23-20) to the Diocese of Pueblo for the use of the public right-of-way along Clark Street from B Street to the southern terminus adjacent to the Arkansas River levee for the purpose of hosting Our Lady of Mount Carmel's annual festival and procession from July 15 through July 16, 2023.
- M10 A Resolution authorizing the issuance of a revocable permit (REV-23-21) to the Greater Pueblo Chamber of Commerce for the use of the public right-of-way along "B" Street from Union Avenue to San Pedro Street and Victoria Avenue from "B" Street to "C" Street for the purpose of facilitating their Great Race Event on July 01, 2023.
- M11 A Resolution authorizing the issuance of a revocable permit (REV-23-26) to the Pueblo Performing Arts Guild for the use of the public right-of-way along South Grand Avenue between City Center Drive and Victoria Street for the purpose of facilitating their first Creative Corridor Jazz Concert, July 7, through July 8, 2023.
- M12 A Resolution authorizing the issuance of a revocable permit (REV-23-22) to BEP Pueblo Hospitality, LLC., for the purpose of installing landscaping improvements on Permittee's Property to the right-of-way area adjacent to 6020 North Elizabeth Street between the



sidewalk and curb and gutter.

M13 A Resolution confirming the appointment by the Mayor of Jennifer Thornton to serve a four-year term expiring August 30, 2027 on the ADA Advisory Committee

## **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 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
- N2 An Ordinance establishing Project PL2305, Safe Streets & Roads for All - SS4A, and approving an Intergovernmental Agreement (IGA) between the City of Pueblo, a Colorado Municipal Corporation, and the Federal Highway Administration, Award Number: 693JJ32340380 in the amount of \$681,600, transferring \$170,400 from CI2204 to PL2305, budgeting and appropriating funds in the amount of \$852,000 and authorizing the Mayor to execute same
- N3 An Ordinance establishing Project PL2304, Bessemer Commerce Revitalization Project, accepting a small dollar grant from the Colorado Department of Transportation, in the amount of \$222,750, transferring \$22,275 from CI2204 to PL2304, budgeting and appropriating funds in the amount of \$245,025, and authorizing the Mayor to execute same
- N4 An Ordinance establishing Project WW2305, the Pretreatment Building Project, transferring \$150,000 from WW9999 to WW2305, budgeting and appropriating funds in the amount of \$150,000, approving an agreement for Professional Engineering and Architectural Services, Project 23-046 in the amount of \$129,406.00 between the City of Pueblo, a Municipal Corporation, and Short Elliott Hendrickson, Inc., and authorizing the Mayor to execute same
- N5 An Ordinance budgeting and appropriating an amount of \$120,000 from the unappropriated fund balance of the General Fund to the Professional Services Account of the Law Department and approving compensation for special counsel on an as needed basis
- N6 An Ordinance approving and accepting a grant agreement with Colorado Blueprint to End Hunger and their fiscal sponsor, the Trailhead Institute, for a grant award in the amount of \$53,625.00 on behalf of the Pueblo Food Project, ratifying the prior signature of the Mayor to said grant agreement, creating Project No. CI2323, and budgeting and appropriating \$53,625.00 into Project No. CI2323
- N7 An Ordinance approving and accepting a grant in the amount of \$20,000 from the Colorado Centennial Fund, a subsidiary of the Caring for Colorado Foundation, for the Pueblo Food Project, ratifying the Mayor's signature of the grant agreement, creating Project No. CI2324, and budgeting and appropriating \$20,000 to Project No. CI2324
- N8 An Ordinance authorizing assignment of a Private Activity Bond Allocation from the City of Pueblo to the Colorado Housing and Finance Authority pursuant to the Colorado Private Activity Bond Ceiling Allocation Act.
- N9 An Ordinance approving an agreement between Pueblo, a Municipal Corporation, and the City of Chihuahua, State of Chihuahua of the United Mexican States, and authorizing and ratifying the execution of same by the Mayor

## **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 July 10, 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 Friends of the Arkansas River in the amount of \$250 to sponsor the Summer Solstice Festival and Lantern Parade on June 17, 2023 at 4 pm at Runyon Lake

## **R. ORDINANCES – FINAL PRESENTATION**

- R1 An Ordinance to establish project no. WW2304, budgeting and appropriating \$1,029,328 from project no. WW9999 to project no. WW2304 and approving an agreement for Professional Engineering services in the amount of \$1,029,328 between the City of Pueblo, a Colorado Municipal Corporation, and Brown and Caldwell, Inc., for consulting engineering services with respect to the Secondary Clarifiers Project. - *Introduced June 12, 2023 by Councilor Vicente Martinez Ortega*
- R2 An Ordinance approving and accepting Colorado Department of Transportation (CDOT) Aeronautics Division Grant No. 23-PUB-01 for funds in the amount of \$276,521 for the Runway 8R-26L Rehabilitation and Taxiway A2 Removal project, authorizing the Mayor to execute same, and budgeting and appropriating \$599,121 in grant and matching funds to project No. AP2205 – Rehab Runway 8R-26L Design & Construction - *Introduced June 12, 2023 by Councilor Vicente Martinez Ortega*
- R3 An Ordinance establishing project PL2303 - Evaluation of Landfill Operation Alternatives, transferring \$150,000 from the unappropriated fund balance of the General Fund, and budgeting and appropriating said funds in the amount of \$150,000 to Project No. PL2303 - *Introduced June 12, 2023 by Councilor Vicente Martinez Ortega*
- R4 An Ordinance establishing account Project CI2320 - Fire Station No. 6 Land Procurement, transferring \$70,000 from the unappropriated fund balance of the General Fund, budgeting and appropriating said funds in the amount of \$70,000 to account Project No. CI2320, and approving and authorizing the Mayor to execute a contract to buy and sell real estate for a portion of Lots 7 and 8, Block 2, Trinity Subdivision, City of Pueblo Colorado - *Introduced June 12, 2023 by Councilor Vicente Martinez Ortega*
- R5 An Ordinance approving and accepting a subgrant in the amount of \$55,000 from One Colorado Education Fund for the Pueblo Food Project, authorizing the Mayor to sign the grant agreement, and budgeting and appropriating \$55,000 to project No. CI2213 - *Introduced June 12, 2023 by Councilor Vicente Martinez Ortega*
- R6 An Ordinance approving a professional services agreement in an amount not to exceed \$45,560 between the City of Pueblo and Financial Consulting Solutions Group, Inc., d.b.a. FCS Group for the 2023 biennial Wastewater rate review - *Introduced June 12, 2023 by Councilor Vicente Martinez Ortega*
- R7 An Ordinance changing Capital Project No. CI2306 - Ice Arena Restroom Expansion to Capital Project No. CI2306 - Ice Arena Renovations - *Introduced June 12, 2023 by Councilor Vicente Martinez Ortega*
- R8 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 - *Introduced June 12, 2023 by Councilor*

*Vicente Martinez Ortega*

- R9 An Ordinance amending appropriations and compiling previous amendments to the General Fund, Special Revenue Funds, Enterprise Funds, Internal Service Funds, Debt Service Funds and Capital Project Funds for the fiscal year 2022 and amending the budget for the year 2022 - *Introduced June 12, 2023 by Councilor Vicente Martinez Ortega*
- R10 An Ordinance amending zoning restrictions to rezone approximately 34.07-acres from S-1, Government Use Zone District to I-2, Industrial Zone District - *Introduced June 12, 2023 by Councilor Vicente Martinez Ortega*
- R11 An Ordinance amending zoning restrictions to rezone approximately 25.47-acres from Pueblo County A-1 to City of Pueblo S-1, Government Use Zone District and approximately 44.44-acres from Pueblo County A-1 and R-6 to City of Pueblo A-1, Agricultural One Zone District - *Introduced June 12, 2023 by Councilor Vicente Martinez Ortega*
- R12 An Ordinance approving an agreement between the City of Pueblo, a Colorado Municipal Corporation, and Hilltop Securities Inc., Municipal Advisory Services and authorizing the Mayor to execute same - *Introduced June 12, 2023 by Councilor Vicente Martinez Ortega*
- R13 An Ordinance directing that the November 7, 2023 General Municipal Election be conducted as part of a coordinated election, adopting for use at the General Municipal Election the requirements and procedures of the Uniform Election Code of 1992 except to the extent the Uniform Election Code of 1992 conflicts with a specific provision of the Charter of the City of Pueblo, and suspending for such purposes the Pueblo Election Code and all ordinances and resolutions of the City in conflict therewith - *Introduced June 12, 2023 by Councilor Vicente Martinez Ortega*

#### **S. COUNCIL MEMBER CONFLICT OF INTEREST**

- S1 A Resolution authorizing payment in the amount of up to \$1,831,620 from Project CI2113 - American Rescue Plan Act for a one-time \$10,000 retention bonus to existing sworn line staff, Police Officers, as authorized by Section 603(C)(1)(C) of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6.
- S2 An Ordinance approving an amendment to the Collective Bargaining Agreement between the City of Pueblo and the International Brotherhood of Police Officers Local 537 relating to retention bonuses, reductions of steps within the salary schedule for the Police Patrol Officer classification, and implementing a Quartermaster System - *Introduced June 12, 2023 by Councilor Vicente Martinez Ortega*
- S3 An Ordinance amending Section 6-5-16 of Chapter 5, of Title VI of the Pueblo Municipal Code relating to the FY 2023 Classification and Pay Plan by amending the pay scale for Police Patrol Officer - *Introduced June 12, 2023 by Councilor Vicente Martinez Ortega*

#### **T. ADJOURN**



**REGULAR CITY COUNCIL MEETING  
CITY COUNCIL CHAMBERS – CITY HALL  
#1 CITY HALL PLACE  
MONDAY, JUNE 12, 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, Vicente Martinez Ortega, Lori Winner.

**Council Members Present via Zoom:** None.

**Council Members Absent:** None.

**Administrative Staff Members Present:** Acting City Attorney Bob Jagger, City Clerk Marisa Stoller.

**E. SPECIAL RECOGNITIONS**

**F. PUBLIC FORUM**

- Michelle Gray - HB-1202
- Elvis Martinez - City employees and more
- Sam Hernandez - Mayor form of government
- Christy Fidura - Exit 104, HB 1202, Pueblo H Museum
- Ted Freeman - City Government Direction

**G. COUNCIL MEMBER AND MAYOR COMMENTARY**

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

**H. REVIEW OF AGENDA**

The agenda was reviewed page by page.

**I. APPROVAL OF AGENDA**

Councilor Martinez, seconded by Councilor Martinez Ortega, moved to remove item N16 from

the consent agenda and place it on the regular agenda and to move item R3 to the start of the Ordinances - Final Presentation section and to approve the agenda as amended.

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

## **J. READING AND APPROVAL OF MINUTES**

### **J1 CITY COUNCIL MINUTES 05/22/2023**

Councilor Martinez Ortega, seconded by Councilor Flores, moved to dispense with the reading and approve the Minutes of the Regular Meeting dated **May 22, 2023** as distributed.

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

## **K. CONSENT AGENDA**

City Clerk Marisa Stoller read the Consent Agenda into the record.

## **L. COMMUNICATIONS**

## **M. RESOLUTIONS**

### **M1 A RESOLUTION AWARDED A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$458,754 TO JARCCO CONSTRUCTION LLC., FOR PROJECT NO. 23-068, CONCRETE IMPROVEMENTS - WEST 32ND STREET, SETTING FORTH \$91,750 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME**

This Resolution was assigned as 15257.

### **M2 A RESOLUTION AUTHORIZING THE EXTENSION OF THE CONDITIONAL WAIVERS OF FEES RELATING TO WASTEWATER UTILITY TAP AND PLANT INVESTMENT FEES AND GRANTING WAIVERS FOR OTHER DEVELOPMENT FEES PERTAINING TO THE PUEBLO SPRINGS APARTMENT COMPLEX LOCATED ON THE SOUTHWEST CORNER OF NORTH PUEBLO BOULEVARD AND WEST 31<sup>ST</sup> STREET IN THE CITY OF PUEBLO**

This Resolution was assigned as 15258.

### **M3 A RESOLUTION AWARDED AN AGREEMENT TO PROVIDE ON-CALL TRANSPORTATION TECHNICAL ASSISTANCE WITH RESPECT TO THE UPDATE TRAVEL DEMAND MODEL IN THE AMOUNT OF \$188,370 TO WILSON & COMPANY, INC., FROM TP2241 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME**

This Resolution was assigned as 15259.

### **M4 A RESOLUTION TRANSFERRING FUNDS IN THE AMOUNT OF \$90,029.35 FROM THE "2023" PUBLIC WORKS OPERATING BUDGET FOR CONTRACT SERVICES, APPROVING AMENDMENT NO. 2 TO THE MASTER SUBSCRIPTION AGREEMENT IN THE AMOUNT OF \$90,029.35 BETWEEN**

**THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BRIGHTLY SOFTWARE, INC., A NORTH CAROLINA CORPORATION, FORMERLY DUDE SOLUTIONS, INC., FOR PROJECT NO. 21-041 PUEBLO STREET ASSESSMENT PROJECT, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME.**

This Resolution was assigned as 15260.

- M5 A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF \$30,086.00 FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT FOR THE PURCHASE OF BLEACHERS - JOE SANTOS FIELD AT RAY AGUILERA PARK A GOVERNMENT PROJECT AS AUTHORIZED BY SECTION 603(C)(1) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6**

This Resolution was assigned as 15261.

- M6 A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$22,515.82 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 510 W D STREET, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME.**

This Resolution was assigned as 15262.

- M7 A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$17,172.74 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 1127 CATALPA ST, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME.**

This Resolution was assigned as 15263.

- M8 A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$15,577.93 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 1016 BLUESTEM BOULEVARD, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME.**

This Resolution was assigned as 15264.

- M9 A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-23-18) TO LA GENTE YOUTH SPORTS, INC., FOR THE USE OF THE PUBLIC RIGHT-OF-WAY ALONG JUAN MADRID AVENUE BETWEEN EAST 12TH STREET AND EAST 13TH STREET FOR THE PURPOSE OF FACILITATING THEIR ANNUAL SOFTBALL TOURNAMENT JULY 21 THROUGH JULY 24, 2023.**

This Resolution was assigned as 15265.

- M10 A RESOLUTION APPROVING A RELEASE OF DEED OF TRUST BETWEEN PUEBLO, A COLORADO MUNICIPAL CORPORATION AND MATRIX MARKETING, INC., AND AUTHORIZING THE MAYOR TO EXECUTE SAME**

This Resolution was assigned as 15266.

- M11 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF MIKE**

## **CASTELLUCCI AND GEORGIA WAY TO THE ZONING BOARD OF APPEALS**

This Resolution was assigned as 15267.

### **M12 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF ALEXANDRA AZNAR AND MIKE CASTELLUCCI TO SERVE A FOUR-YEAR TERM EXPIRING JULY 1, 2027 ON THE PLANNING & ZONING COMMISSION**

This Resolution was assigned as 15268.

### **M13 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF LAURA GETTS, ALAN WARD, AND JOHN VIGIL TO SERVE A FOUR-YEAR TERM EXPIRING JUNE 30, 2027 ON THE ENERGY ADVISORY COMMISSION**

This Resolution was assigned as 15269.

### **M14 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF ROBERT HIDALGO TO COMPLETE A THREE-YEAR TERM EXPIRING ON SEPTEMBER 30, 2023 ON THE PUEBLO MEMORIAL AIRPORT ADVISORY COMMITTEE**

This Resolution was assigned as 15270.

### **M15 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF ANDREA ARAGON TO SERVE A FIVE-YEAR TERM EXPIRING JULY 1, 2028 ON THE HOUSING AUTHORITY OF THE CITY OF PUEBLO BOARD OF DIRECTORS**

This Resolution was assigned as 15271.

### **M16 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF ZOLANYE MCCULLEY-BACHICHA TO SERVE A FIVE-YEAR TERM EXPIRING JULY 1, 2028 ON THE BOARD OF HEALTH**

This Resolution was assigned as 15272.

### **M17 A RESOLUTION APPOINTING A PANEL OF ARBITRATORS REQUIRED BY SECTION 8-14(S)(3) OF THE CHARTER OF THE CITY OF PUEBLO**

This Resolution was assigned as 15273.

### **M18 A RESOLUTION TO AMEND RESOLUTION NO. 15242 TO CORRECT THE FINANCE PROJECT NUMBERS FROM WHICH FUNDS WILL BE PAID FOR PROJECT NO. 23-064, MISCELLANEOUS CONCRETE IMPROVEMENTS (CDBG)**

This Resolution was assigned as 15274.

## **N. ORDINANCES – FIRST PRESENTATION**

### **N1 AN ORDINANCE TO ESTABLISH PROJECT NO. WW2304, BUDGETING AND APPROPRIATING \$1,029,328 FROM PROJECT NO. WW9999 TO PROJECT NO. WW2304 AND APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF \$1,029,328 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BROWN AND CALDWELL, INC., FOR CONSULTING ENGINEERING SERVICES WITH RESPECT TO THE SECONDARY CLARIFIERS PROJECT.**

- N2 AN ORDINANCE APPROVING AND ACCEPTING COLORADO DEPARTMENT OF TRANSPORTATION (CDOT) AERONAUTICS DIVISION GRANT NO. 23-PUB-01 FOR FUNDS IN THE AMOUNT OF \$276,521 FOR THE RUNWAY 8R-26L REHABILITATION AND TAXIWAY A2 REMOVAL PROJECT, AUTHORIZING THE MAYOR TO EXECUTE SAME, AND BUDGETING AND APPROPRIATING \$599,121 IN GRANT AND MATCHING FUNDS TO PROJECT NO. AP2205 – REHAB RUNWAY 8R-26L DESIGN & CONSTRUCTION**
- N3 AN ORDINANCE ESTABLISHING PROJECT PL2303 - EVALUATION OF LANDFILL OPERATION ALTERNATIVES, TRANSFERRING \$150,000 FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND, AND BUDGETING AND APPROPRIATING SAID FUNDS IN THE AMOUNT OF \$150,000 TO PROJECT NO. PL2303**
- N4 AN ORDINANCE ESTABLISHING ACCOUNT PROJECT CI2320 - FIRE STATION NO. 6 LAND PROCUREMENT, TRANSFERRING \$70,000 FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND, BUDGETING AND APPROPRIATING SAID FUNDS IN THE AMOUNT OF \$70,000 TO ACCOUNT PROJECT NO. CI2320, AND APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT TO BUY AND SELL REAL ESTATE FOR A PORTION OF LOTS 7 AND 8, BLOCK 2, TRINITY SUBDIVISION, CITY OF PUEBLO COLORADO**
- N5 AN ORDINANCE APPROVING AND ACCEPTING A SUBGRANT IN THE AMOUNT OF \$55,000 FROM ONE COLORADO EDUCATION FUND FOR THE PUEBLO FOOD PROJECT, AUTHORIZING THE MAYOR TO SIGN THE GRANT AGREEMENT, AND BUDGETING AND APPROPRIATING \$55,000 TO PROJECT NO. CI2213**
- N6 AN ORDINANCE APPROVING A PROFESSIONAL SERVICES AGREEMENT IN AN AMOUNT NOT TO EXCEED \$45,560 BETWEEN THE CITY OF PUEBLO AND FINANCIAL CONSULTING SOLUTIONS GROUP, INC., D.B.A. FCS GROUP FOR THE 2023 BIENNIAL WASTEWATER RATE REVIEW**
- N7 AN ORDINANCE CHANGING CAPITAL PROJECT NO. CI2306 - ICE ARENA RESTROOM EXPANSION TO CAPITAL PROJECT NO. CI2306 - ICE ARENA RENOVATIONS**
- 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 AMENDING APPROPRIATIONS AND COMPILING PREVIOUS AMENDMENTS TO THE GENERAL FUND, SPECIAL REVENUE FUNDS, ENTERPRISE FUNDS, INTERNAL SERVICE FUNDS, DEBT SERVICE FUNDS AND CAPITAL PROJECT FUNDS FOR THE FISCAL YEAR 2022 AND AMENDING THE BUDGET FOR THE YEAR 2022**

**N10 AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE APPROXIMATELY 34.07-ACRES FROM S-1, GOVERNMENT USE ZONE DISTRICT TO I-2, INDUSTRIAL ZONE DISTRICT**

**N11 AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE APPROXIMATELY 25.47-ACRES FROM PUEBLO COUNTY A-1 TO CITY OF PUEBLO S-1, GOVERNMENT USE ZONE DISTRICT AND APPROXIMATELY 44.44-ACRES FROM PUEBLO COUNTY A-1 AND R-6 TO CITY OF PUEBLO A-1, AGRICULTURAL ONE ZONE DISTRICT**

**N12 AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND HILLTOP SECURITIES INC., MUNICIPAL ADVISORY SERVICES AND AUTHORIZING THE MAYOR TO EXECUTE SAME**

**N13 AN ORDINANCE APPROVING AN AMENDMENT TO THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS LOCAL 537 RELATING TO RETENTION BONUSES, REDUCTIONS OF STEPS WITHIN THE SALARY SCHEDULE FOR THE POLICE PATROL OFFICER CLASSIFICATION, AND IMPLEMENTING A QUARTERMASTER SYSTEM**

**N14 AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2023 CLASSIFICATION AND PAY PLAN BY AMENDING THE PAY SCALE FOR POLICE PATROL OFFICER**

**N15 AN ORDINANCE DIRECTING THAT THE NOVEMBER 7, 2023 GENERAL MUNICIPAL ELECTION BE CONDUCTED AS PART OF A COORDINATED ELECTION, ADOPTING FOR USE AT THE GENERAL MUNICIPAL ELECTION THE REQUIREMENTS AND PROCEDURES OF THE UNIFORM ELECTION CODE OF 1992 EXCEPT TO THE EXTENT THE UNIFORM ELECTION CODE OF 1992 CONFLICTS WITH A SPECIFIC PROVISION OF THE CHARTER OF THE CITY OF PUEBLO, AND SUSPENDING FOR SUCH PURPOSES THE**

## **PUEBLO ELECTION CODE AND ALL ORDINANCES AND RESOLUTIONS OF THE CITY IN CONFLICT THEREWITH**

### **O. APPROVAL OF CONSENT AGENDA**

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve all Resolutions Set Forth in the Consent Agenda, Pass the Ordinances of the Consent Agenda, Setting the Public Hearings for June 26, 2023, and Order the Ordinances to be published BY TITLE.

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

### **P. REGULAR AGENDA**

### **Q. RESOLUTIONS**

#### **Q1 A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO THE SANGRE DE CRISTO ARTS & CONFERENCE CENTER IN THE AMOUNT OF \$1,500 TO SPONSOR A TABLE AT THE ANNIVERSARY GALA ON FRIDAY, JUNE 2, 2023 AT 6 PM AT THE SANGRE DE CRISTO ARTS & CONFERENCE CENTER**

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

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

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

This Resolution was assigned as 15275.

#### **Q2 A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO COLORADO STATE FAIR FIESTA COMMITTEE IN THE AMOUNT OF \$300 TO SPONSOR THE NOCHE DE FIESTA ON SATURDAY, JULY 29, 2023 AT 5 PM AT THE PUEBLO CONVENTION CENTER**

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

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

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

This Resolution was assigned as 15276.

### **R. ORDINANCES – FINAL PRESENTATION**

**N16 AN ORDINANCE SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 7, 2023 A PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF PUEBLO CHANGING THE FORM OF GOVERNMENT FROM MAYOR-COUNCIL TO COUNCIL-MANAGER AND FIXING THE BALLOT TITLE THEREFOR**

This item was removed from the consent agenda and placed on the regular agenda.

Councilor Winner, seconded by Councilor Maestri, moved to Pass the Ordinance on first reading, Setting the Public Hearings for June 26, 2023, and Ordered the Ordinance to be published BY TITLE.

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

**R3 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT AND RELATED FACILITY USE AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE BOYS AND GIRLS CLUB OF PUEBLO COUNTY, 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 ONE HUNDRED AND FIFTY-THREE THOUSAND ONE HUNDRED SEVENTY EIGHT DOLLARS (\$153,178) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF**

A staff report and detailed review of the Ordinance was given by Steven Meier, Director of Parks & Recreation.

**PUBLIC HEARING:**

- Sophia Johnson appeared in person to speak in favor of this ordinance
- Angela Cesgree appeared in person to speak in favor of this ordinance
- Sylvia Tenant appeared in person to speak in favor of this ordinance
- Elena Varo Tenant appeared in person to speak in favor of this ordinance
- Bernadette Esquivel-Tenant appeared in person to speak in favor of this ordinance

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

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

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

This Ordinance was assigned as 10470.

**R1 AN ORDINANCE TRANSFERRING \$1,200,000.00 FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND TO PROJECT NO. CIAN23 - DEMOLITION OF UNSAFE STRUCTURES, AND BUDGETING AND APPROPRIATING \$1,200,000.00 TO SAID PROJECT**

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

**PUBLIC HEARING:**

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

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

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

This Ordinance was assigned as **10471**.

**R2 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND PUEBLO SCHOOL DISTRICT NO. 60, A PUBLIC SCHOOL DISTRICT AND POLITICAL SUBDIVISION OF THE STATE OF COLORADO, AND AUTHORIZING THE PAYMENT OF AMOUNTS FROM FUND NO. 226 - OPIOID ABATEMENT SETTLEMENT, FOR PURPOSES THEREOF**

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

**PUBLIC HEARING:**

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

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

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

This Ordinance was assigned as **10472**.

**R4 AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY SYSTEM, ACTING BY AND THROUGH COLORADO STATE UNIVERSITY PUEBLO AND AUTHORIZING THE MAYOR TO EXECUTE SAME**

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

**PUBLIC HEARING:**

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

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

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

This Ordinance was assigned as **10473.**

**R5 AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE THE SOUTHERN PORTION OF LOT 2, BLOCK 1 PARK WEST BUSINESS CAMPUS FILING NO. 9, APPROXIMATELY 11.85 ACRES GENERALLY LOCATED EAST OF PUEBLO BOULEVARD AND SOUTH OF EAST SPAULDING AVENUE FROM B-3, HIGHWAY ARTERIAL ZONE DISTRICT TO R-5, MULTIPLE RESIDENTIAL AND OFFICE ZONE DISTRICT**

A staff report and detailed review of the Ordinance was given by Beritt Odom, Principal Planner. Ms. Odom requested that the Planning & Zoning documents for this item, Case #Z22-05 dated September 12, 2022, be made part of the record for this hearing. So ordered by President Graham.

**PUBLIC HEARING:**

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

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

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

This Ordinance was assigned as **10474.**

**R6 AN ORDINANCE APPROVING THE COTTAGES AT PARK WEST SPECIAL AREA PLAN**

A staff report and detailed review of the Ordinance was given by Beritt Odom, Principal Planner. Ms. Odom requested that the Planning & Zoning documents for this item, Case #SAP 22-01 dated October 12, 2022, be made part of the record for this hearing. So ordered by President Graham.

**PUBLIC HEARING:**

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

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

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

This Ordinance was assigned as **10475.**

**R7 AN ORDINANCE APPROVING THE COTTAGES AT PARK WEST SUBDIVISION**

A staff report and detailed review of the Ordinance was given by Beritt Odom, Principal Planner. Ms. Odom requested that the Planning & Zoning documents for this item, Case #S 22-03 dated October 12, 2022, be made part of the record for this hearing. So ordered by President Graham.

**PUBLIC HEARING:**

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

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

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

This Ordinance was assigned as **10476.**

**R8 AN ORDINANCE VACATING A 40-FOOT UTILITY, DRAINAGE, AND INGRESS/EGRESS EASEMENT THAT RUNS DIAGONALLY THROUGH PARCEL B, REARRANGEMENT OF PROPERTY BOUNDARIES, AMENDED PLAT, UNIVERSITY PARK 30TH FILING**

A staff report and detailed review of the Ordinance was given by Beritt Odom, Senior Planner. Ms. Odom requested that the Planning & Zoning documents for this item, Case #V-23-03 dated April 12, 2023, be made part of the record for this hearing. So ordered by President Graham.

**PUBLIC HEARING:**

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

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

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

This Ordinance was assigned as **10477.**

**R9 AN ORDINANCE APPROVING THE UNIVERSITY PARK SUBDIVISION, 33RD FILING**

A staff report and detailed review of the Ordinance was given by Beritt Odom, Senior Planner. Ms. Odom requested that the Planning & Zoning documents for this item, Case #S-21-13 dated April 12, 2023, be made part of the record for this hearing. So ordered by President Graham.

**PUBLIC HEARING:**

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

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

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

This Ordinance was assigned as **10478.**

**R10 AN ORDINANCE APPROVING A WATER MAIN EXTENSION AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL**

**CORPORATION AND THE BOARD OF WATER WORKS FOR PUEBLO, COLORADO FOR THE EXTENSION OF WATER MAINS IN W. 18TH STREET AND NEWPORT AVENUE AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME**

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

**PUBLIC HEARING:**

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

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

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

This Ordinance was assigned as 10479.

**R11 AN ORDINANCE AMENDING SECTION 4 OF CHAPTER 2 OF TITLE IX OF THE PUEBLO MUNICIPAL CODE TO BRING CABARET LICENSE APPLICATION REQUIREMENTS IN LINE WITH STANDARD LIQUOR LICENSE APPLICATION REQUIREMENTS**

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

**PUBLIC HEARING:**

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

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

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

This Ordinance was assigned as 10480.

**R12 AN ORDINANCE APPROVING A PUEBLO MURAL LEVEE PROJECT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND DESIREE TALMICH AND AUTHORIZING THE MAYOR TO EXECUTE SAME**

A staff report and detailed review of the Ordinance was given by Bob Jagger, Acting City Attorney.

**PUBLIC HEARING:**

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

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

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

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

This Ordinance was assigned as **10481.**

## **S. EMERGENCY ORDINANCES**

### **S1 AN EMERGENCY ORDINANCE ESTABLISHING PROJECT CI2322 - FOUNTAIN CREEK TRAIL REPAIRS, TRANSFERRING \$250,000 FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND AND BUDGETING AND APPROPRIATING SAID FUNDS IN THE AMOUNT OF \$250,000 TO PROJECT NO. CI2322.**

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

#### **PUBLIC HEARING:**

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

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

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

This Ordinance was assigned as **10482.**

## **T. ADJOURN**

President Graham adjourned the meeting at 9:00 p.m.

Respectfully submitted,



Marisa Stoller  
City Clerk





**Background Paper for Proposed  
Resolution**

**COUNCIL MEETING DATE:** June 26, 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 \$264,942.00 TO CEDAR RIDGE LANDSCAPE, INC., FOR PROJECT NO. 23-088, CONCRETE IMPROVEMENTS - NORTHERN AVENUE PHASE 2, SETTING FORTH \$39,741 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

**SUMMARY:**

Attached is a resolution awarding a Construction Contract to Cedar Ridge Landscape Inc., for Project No. 23-088, Concrete Improvements - Northern Avenue Phase 2.

**PREVIOUS COUNCIL ACTION:**

None.

**BACKGROUND:**

This project will consist of concrete sidewalk and curb ramp improvements along Northern Avenue. The awarded bid alternate includes the work necessary to repair the planters at three locations along the south side of Northern Avenue, which includes removing honey locust trees, existing curb and gutter, asphalt roadway, concrete curb head, installing new curb and gutter, asphalt roadway, sidewalk, and 7-inch x 7-inch curb head.

This Resolution awards the construction contract to Cedar Ridge Landscape, Inc.

**FINANCIAL IMPLICATIONS:**

The concrete portion of the contract, in the amount of \$244,991.00, plus \$36,749.00 in contingencies, will be paid from account Project CI2309, Road & Street Repairs.

The streetscape portion of the contract, in the amount of \$19,951.00, plus \$2,992.00 in contingencies, will be paid from account Project CI2113, ARPA Streetscape - Northern - Orman to Elm.

**BOARD/COMMISSION RECOMMENDATION**

None.

**STAKEHOLDER PROCESS:**

None.

**ALTERNATIVES:**

Denial of this resolution will cancel the project.

**RECOMMENDATION:**

Approval of the Resolution.

**ATTACHMENTS:**

1. 23-088 Bid Summary

RESOLUTION NO. 15277

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$264,942.00 TO CEDAR RIDGE LANDSCAPE, INC., FOR PROJECT NO. 23-088, CONCRETE IMPROVEMENTS - NORTHERN AVENUE PHASE 2, SETTING FORTH \$39,741 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for Project No. 23-088, Concrete Improvements - Northern Avenue Phase 2 have been received and examined; and,

WHEREAS, the proposal of Cedar Ridge Landscape, Inc., was the lowest bid determined to be responsive, and the Committee of Awards recommends to the City Council that it authorize Project No. 23-088, Concrete Improvements - Northern Avenue Phase 2 to be performed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The City Council authorizes Project No. 23-088, Concrete Improvements - Northern Avenue Phase 2 to be performed, and the contract for said project is hereby awarded to Cedar Ridge Landscape, Inc., in the amount of \$264,942.00.

SECTION 2.

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

SECTION 3.

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

Contingencies and Additional Work.....\$39,741.00

SECTION 4.

Funds for the concrete portion of the construction contract, in the amount of \$244,991.00 plus \$36,749.00 in contingencies, shall be from account Project CI2309 Road & Street Repairs.

SECTION 5.

Funds for the streetscape portion of the construction contract, in the amount of \$19,951.00, plus \$2,992.00 in contingencies, shall be paid from account Project CI2113, ARPA Funds Streetscape - Northern - Orman to Elm.

SECTION 6.

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.

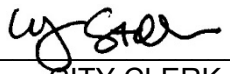
SECTION 7.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: June 26, 2023

BY: Vicente Martinez Ortega  
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. 23-088 (CI2309)  
Concrete Improvements - Northern Avenue Phase 2  
RESPONSE DEADLINE: June 7, 2023 at 10:30 am  
Report Generated: Wednesday, June 7, 2023

**SELECTED VENDOR TOTALS**

| Vendor                              | Total          | BASE BID       | BID ALTERNATE NO. 1 |
|-------------------------------------|----------------|----------------|---------------------|
| Cedar Ridge Landscape, Inc          | \$264,942.00   | \$244,991.00   | \$19,951.00         |
| Baha Construction, Inc.             | \$276,303.00   | \$252,733.00   | \$23,570.00         |
| Sunland Asphalt & Construction, LLC | \$411,176.6502 | \$379,066.1802 | \$32,110.47         |

**BASE BID**

| Base Bid |           |                      |          |                 | Baha Construction, Inc. |             | Cedar Ridge Landscape, Inc |             | Sunland Asphalt & Construction, LLC |              |
|----------|-----------|----------------------|----------|-----------------|-------------------------|-------------|----------------------------|-------------|-------------------------------------|--------------|
| Selected | Line Item | Description          | Quantity | Unit of Measure | Unit Cost               | Total       | Unit Cost                  | Total       | Unit Cost                           | Total        |
| X        | 1         | Remove Brick Pavers  | 3700     | SF              | \$2.50                  | \$9,250.00  | \$4.50                     | \$16,650.00 | \$2.144                             | \$7,932.80   |
| X        | 2         | Remove Asphalt       | 1340     | SF              | \$4.00                  | \$5,360.00  | \$4.25                     | \$5,695.00  | \$10.2571                           | \$13,744.514 |
| X        | 3         | Remove Curb & Gutter | 595      | LF              | \$12.00                 | \$7,140.00  | \$12.00                    | \$7,140.00  | \$11.7098                           | \$6,967.331  |
| X        | 4         | Remove Concrete      | 1687     | SF              | \$6.00                  | \$10,122.00 | \$4.00                     | \$6,748.00  | \$1.2647                            | \$2,133.5489 |

## EVALUATION TABULATION

IFB No. 23-088 (CI2309)

## Concrete Improvements - Northern Avenue Phase 2

| Base Bid |           |                                  |          |                 | Baha Construction, Inc. |             | Cedar Ridge Landscape, Inc |             | Sunland Asphalt & Construction, LLC |               |
|----------|-----------|----------------------------------|----------|-----------------|-------------------------|-------------|----------------------------|-------------|-------------------------------------|---------------|
| Selected | Line Item | Description                      | Quantity | Unit of Measure | Unit Cost               | Total       | Unit Cost                  | Total       | Unit Cost                           | Total         |
| X        | 5         | Remove Reinforced Concrete       | 157      | SF              | \$10.00                 | \$1,570.00  | \$5.00                     | \$785.00    | \$132.4459                          | \$20,794.0063 |
| X        | 6         | Construct Curb Head              | 185      | LF              | \$22.00                 | \$4,070.00  | \$22.00                    | \$4,070.00  | \$30.44                             | \$5,631.40    |
| X        | 7         | Construct Curb & Gutter          | 595      | LF              | \$42.00                 | \$24,990.00 | \$41.00                    | \$24,395.00 | \$40.58                             | \$24,145.10   |
| X        | 8         | Construct 4" Concrete            | 3184     | SF              | \$10.50                 | \$33,432.00 | \$10.00                    | \$31,840.00 | \$11.10                             | \$35,342.40   |
| X        | 9         | Construct 6" Concrete            | 2173     | SF              | \$16.00                 | \$34,768.00 | \$13.00                    | \$28,249.00 | \$15.07                             | \$32,747.11   |
| X        | 10        | Construct 7" Reinforced Concrete | 157      | SF              | \$20.00                 | \$3,140.00  | \$18.00                    | \$2,826.00  | \$18.36                             | \$2,882.52    |
| X        | 11        | Construct Asphalt Roadway Patch  | 1272     | SF              | \$18.00                 | \$22,896.00 | \$9.00                     | \$11,448.00 | \$10.88                             | \$13,839.36   |
| X        | 12        | Install Tactile Band 24"x24"     | 78       | Each            | \$500.00                | \$39,000.00 | \$250.00                   | \$19,500.00 | \$400.64                            | \$31,249.92   |
| X        | 13        | Install Tactile Band 24"x30"     | 4        | Each            | \$750.00                | \$3,000.00  | \$310.00                   | \$1,240.00  | \$496.54                            | \$1,986.16    |
| X        | 14        | Install Pedestrian Pole, L=4'    | 1        | Each            | \$2,500.00              | \$2,500.00  | \$3,500.00                 | \$3,500.00  | \$6,200.00                          | \$6,200.00    |
| X        | 15        | Install Pedestrian Push Button   | 16       | Each            | \$900.00                | \$14,400.00 | \$2,400.00                 | \$38,400.00 | \$3,733.33                          | \$59,733.28   |

## EVALUATION TABULATION

Public Improvement Invitation for Bid - Concrete Improvements - Northern Avenue Phase 2

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## EVALUATION TABULATION

IFB No. 23-088 (CI2309)

Concrete Improvements - Northern Avenue Phase 2

| Base Bid |           |                                        |          |                 | Baha Construction, Inc. |              | Cedar Ridge Landscape, Inc |              | Sunland Asphalt & Construction, LLC |                |
|----------|-----------|----------------------------------------|----------|-----------------|-------------------------|--------------|----------------------------|--------------|-------------------------------------|----------------|
| Selected | Line Item | Description                            | Quantity | Unit of Measure | Unit Cost               | Total        | Unit Cost                  | Total        | Unit Cost                           | Total          |
| X        | 16        | Install 2" Electrical Conduit & Wiring | 33       | LF              | \$50.00                 | \$1,650.00   | \$45.00                    | \$1,485.00   | \$58.18                             | \$1,919.94     |
| X        | 17        | Install Class 6 Backfill               | 17       | Ton             | \$85.00                 | \$1,445.00   | \$60.00                    | \$1,020.00   | \$124.87                            | \$2,122.79     |
| X        | 18        | Erosion & Sediment Control             | 1        | LS              | \$4,500.00              | \$4,500.00   | \$2,000.00                 | \$2,000.00   | \$20,000.00                         | \$20,000.00    |
| X        | 19        | Traffic Control                        | 1        | LS              | \$15,000.00             | \$15,000.00  | \$20,500.00                | \$20,500.00  | \$46,933.33                         | \$46,933.33    |
| X        | 20        | Mobilization                           | 1        | LS              | \$14,500.00             | \$14,500.00  | \$17,500.00                | \$17,500.00  | \$42,760.67                         | \$42,760.67    |
| Total    |           |                                        |          |                 |                         | \$252,733.00 |                            | \$244,991.00 |                                     | \$379,066.1802 |

## EVALUATION TABULATION

Public Improvement Invitation for Bid - Concrete Improvements - Northern Avenue Phase 2

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EVALUATION TABULATION  
IFB No. 23-088 (CI2309)  
Concrete Improvements - Northern Avenue Phase 2

**BID ALTERNATE NO.1**

| BID ALTERNATE NO.1 |           |                                 |          |                 | Baha Construction, Inc. |             | Cedar Ridge Landscape, Inc |             | Sunland Asphalt & Construction, LLC |             |
|--------------------|-----------|---------------------------------|----------|-----------------|-------------------------|-------------|----------------------------|-------------|-------------------------------------|-------------|
| Selected           | Line Item | Description                     | Quantity | Unit of Measure | Unit Cost               | Total       | Unit Cost                  | Total       | Unit Cost                           | Total       |
| X                  | 21        | Remove Tree - 18-inch Diameter  | 2        | EA              | \$2,000.00              | \$4,000.00  | \$1,900.00                 | \$3,800.00  | \$2,105.33                          | \$4,210.66  |
| X                  | 22        | Remove/Reset Brick Pavers       | 157      | SF              | \$12.00                 | \$1,884.00  | \$4.50                     | \$706.50    | \$9.49                              | \$1,489.93  |
| X                  | 23        | Remove Asphalt                  | 118      | SF              | \$4.00                  | \$472.00    | \$4.25                     | \$501.50    | \$7.93                              | \$935.74    |
| X                  | 24        | Remove Curb and Gutter          | 59       | SF              | \$12.00                 | \$708.00    | \$12.00                    | \$708.00    | \$30.82                             | \$1,818.38  |
| X                  | 25        | Remove Concrete                 | 550      | SF              | \$6.00                  | \$3,300.00  | \$4.00                     | \$2,200.00  | \$4.47                              | \$2,458.50  |
| X                  | 26        | Construct Curb Head             | 57       | LF              | \$22.00                 | \$1,254.00  | \$22.00                    | \$1,254.00  | \$33.07                             | \$1,884.99  |
| X                  | 27        | Construct Curb and Gutter       | 59       | LF              | \$42.00                 | \$2,478.00  | \$41.00                    | \$2,419.00  | \$44.68                             | \$2,636.12  |
| X                  | 28        | Construct 4" Concrete           | 500      | SF              | \$10.50                 | \$5,250.00  | \$10.00                    | \$5,000.00  | \$11.91                             | \$5,955.00  |
| X                  | 29        | Construct Asphalt Roadway Patch | 118      | SF              | \$18.00                 | \$2,124.00  | \$9.00                     | \$1,062.00  | \$34.36                             | \$4,054.48  |
| X                  | 30        | Erosion and Sediment Control    | 1        | LS              | \$600.00                | \$600.00    | \$300.00                   | \$300.00    | \$3,333.34                          | \$3,333.34  |
| X                  | 31        | Traffic Control                 | 1        | LS              | \$1,500.00              | \$1,500.00  | \$2,000.00                 | \$2,000.00  | \$3,333.33                          | \$3,333.33  |
| Total              |           |                                 |          |                 |                         | \$23,570.00 |                            | \$19,951.00 |                                     | \$32,110.47 |



EVALUATION TABULATION  
IFB No. 23-088 (CI2309)  
Concrete Improvements - Northern Avenue Phase 2

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**VENDOR QUESTIONNAIRE PASS/FAIL**

| Question Title                                           | Baha Construction, Inc. | Cedar Ridge Landscape, Inc | Sunland Asphalt & Construction, LLC |
|----------------------------------------------------------|-------------------------|----------------------------|-------------------------------------|
| BID GUARANTEE                                            | Pass                    | Pass                       | Pass                                |
| CONFIRMATION OF UNDERSTANDING AND OFFER                  | Pass                    | Pass                       | Pass                                |
| NAME, TITLE, AND CONTACT INFORMATION                     | Pass                    | Pass                       | Pass                                |
| ACKNOWLEDGEMENTS                                         |                         |                            |                                     |
| AFFIRMATIVE ACTION PLAN REQUIREMENT:                     | Pass                    | Pass                       | Pass                                |
| COLORADO LABOR REQUIREMENT:                              | Pass                    | Pass                       | Pass                                |
| SALES AND/OR USE TAX INFORMATION                         | Pass                    | Pass                       | Pass                                |
| Has/is this firm or any officer or partner of this firm: |                         |                            |                                     |
| Convicted of a criminal offense                          | Pass                    | Pass                       | Pass                                |
| Convicted under state or federal statutes                | Pass                    | Pass                       | Pass                                |
| Convicted under state or federal antitrust statutes      | Pass                    | Pass                       | Pass                                |
| Failed to perform                                        | Pass                    | Pass                       | Pass                                |
| Suspension or Debarment                                  | Pass                    | Pass                       | Pass                                |
| Unqualified                                              | Pass                    | Pass                       | Pass                                |
| Unlicensed                                               | Pass                    | Pass                       | Pass                                |
| Delinquent                                               | Pass                    | Pass                       | Pass                                |
| Confirmation                                             | Pass                    | Pass                       | Pass                                |



**Background Paper for Proposed  
Resolution**

**COUNCIL MEETING DATE:** June 26, 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 RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$167,777.96 WITH K.R. SWERDFEGER CONSTRUCTION, INC., FOR EMERGENCY STORM SEWER POINT REPAIR AND \$43,062.31 FOR EMERGENCY SANITARY SEWER POINT REPAIR ON COURT STREET BETWEEN 8TH STREET AND 9TH STREET, PROJECT NO. 20-019 (SW1501) AND PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

**SUMMARY:**

This Resolution ratifies and approves the award of a construction contract to K.R. Swerdfeger Construction, Inc., for emergency storm sewer and sanitary sewer point repairs on Court Street between 8th Street and 9th Street.

**PREVIOUS COUNCIL ACTION:**

None.

**BACKGROUND:**

The Stormwater Utility was notified that there was a pipe backup in the Pueblo County Detention Center (PCDC). A televised inspection of the stormwater infrastructure revealed a broken lateral connecting to the PCDC. Additional televised inspection of the stormwater main on Court Street between 8th Street and 9th Street showed extensive damage to the stormwater main as a result of directional boring operations performed by Black Hills Energy for an electrical service line. An emergency point repair was required to repair the defective stormwater pipes, manhole, and the appurtenant surface repairs.

Additionally, when the Wastewater Department was made aware of the stormwater emergency repair, the sanitary sewer mains were evaluated due to the proximity of the

repair and minimal crossing clearance. The sanitary sewer main crossing the storm main to be repaired was badly deteriorated and would need to be removed and replaced to avoid damaging a newly placed storm pipe.

The bid summary sheet with the unit prices for the estimated work performed by K.R. Swerdfeger Construction, Inc., and the change order for the project are attached. This work was performed under the 2020-2022 Storm Sewer Point Repair Ordinance #9755 which contractors were qualified via competitive bid.

The cost breakdown for the project is as follows:

#### Stormwater Emergency Repair Portion

| Bid Item | Description                                                                                                     | Quantity | Unit | Unit Price | Total       |
|----------|-----------------------------------------------------------------------------------------------------------------|----------|------|------------|-------------|
| 1        | Remove Existing Pipe and Replace w/12" Polypropylene Corrugated Double Wall Pipe Less than 8' Deep              | 95       | LF   | \$219.00   | \$20,805.00 |
| 2        | Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC (based on 12-15" pipe replacement)                      | 95       | LF   | \$84.00    | \$7,980.00  |
| 3        | Remove Existing Pipe and Replace w/18" Polypropylene Corrugated Double Wall Pipe Greater than 8' up to 12' Deep | 297      | LF   | \$189.00   | \$56,133.00 |
| 4        | Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC (based on 18" pipe replacement)                         | 297      | LF   | \$74.00    | \$21,978.00 |
| 5        | Install Extra Lean Concrete (Flowable Fill)                                                                     | 50       | LF   | \$163.00   | \$8,150.00  |
| 6        | Remove and Replace Type 1B 60" Diameter Standard Manhole                                                        | 2        | EA   | \$4,200.00 | \$8,400.00  |
| 7        | Remove and Replace Standard Curb and Gutter                                                                     | 17       | LF   | \$47.00    | \$799.00    |
| 8        | Remove and Replace Type "16" Inlet                                                                              | 2        | EA   | \$8,428.00 | \$16,856.00 |

|                                                       |                                                |     |    |                     |            |
|-------------------------------------------------------|------------------------------------------------|-----|----|---------------------|------------|
| 9                                                     | R & R 4" Non-Reinforced Concrete               | 160 | SF | \$24.00             | \$3,840.00 |
| 10                                                    | Dissimilar Pipe Connection for Pipe 15" to 20" | 2   | EA | \$582.00            | \$1,164.00 |
| 11                                                    | Mobilization                                   | 1   | EA | \$3,515.00          | \$3515.00  |
| <b>Total</b>                                          |                                                |     |    | <b>\$149,620.00</b> |            |
| <b>Stormwater Emergency Repair Change Order Total</b> |                                                |     |    | <b>\$18,157.96</b>  |            |
| <b>Grand Total</b>                                    |                                                |     |    | <b>\$167,777.96</b> |            |

#### Sanitary Sewer Emergency Repair Portion

| Bid Item | Description                                  | Quantity | Unit | Unit Price   | Total               |
|----------|----------------------------------------------|----------|------|--------------|---------------------|
| 1        | Remove and Replace 8" PVC Less than 10' Deep | 42       | LF   | \$ 143.00    | \$ 6,006.00         |
| 2        | Asphalt Patch - 5" HMA on 6" Class 6         | 42       | LF   | \$ 77.00     | \$ 3,234.00         |
| 3        | Install Extra Lean Concrete (Flow fill)      | 15       | CY   | \$ 165.00    | \$ 2,475.00         |
| 4        | Remove and Replace 48" Dia Manhole           | 1        | EA   | \$ 4,000.00  | \$ 4,000.00         |
| 5        | Mobilization                                 | 1        | LS   | \$ 1,500.00  | \$ 1,500.00         |
| 6        | Time and Material for Unidentified Vault     | 1        | LS   | \$ 25,847.31 | \$ 25,847.31        |
|          |                                              |          |      | <b>Total</b> | <b>\$ 43,062.31</b> |

#### **FINANCIAL IMPLICATIONS:**

Funding for the stormwater portion of the project came from the Stormwater Utility budget. Funding was available and had been budgeted, appropriated, and allocated to Project No. 20-019 (SW1501).

Black Hills Energy will be sent an invoice to recover payment for the aforementioned additional work required to repair the storm sewer system per the Storm Sewer Rehabilitation Specifications section outlined in Article 12 of the Standard Construction Specifications and Standard Details for City of Pueblo, Colorado. Recovered funds will be returned to Project No. 20-019 SW1501 of the Stormwater Utility budget.

Funding for the wastewater portion of the 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. Bid Summary Stormwater
2. Site Location Map
3. Change Order Stormwater
4. Change Order Wastewater

RESOLUTION NO. 15278

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$167,777.96 WITH K.R. SWERDFEGER CONSTRUCTION, INC., FOR EMERGENCY STORM SEWER POINT REPAIR AND \$43,062.31 FOR EMERGENCY SANITARY SEWER POINT REPAIR ON COURT STREET BETWEEN 8TH STREET AND 9TH STREET, PROJECT NO. 20-019 (SW1501) AND PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

WHEREAS, an emergency storm 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 K.R. Swerdfeger Construction, Inc., under the 2020-2022 storm sewer 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 stormwater pipes and a manhole between 8th and 9th Street and Court Street with K.R. Swerdfeger Construction, Inc., Project No. 20-019 (SW1501) awarded to said bidder in the amount of \$167,777.96.

SECTION 2.

Funds for Project No. 20-019 (SW1501) of the stormwater portion of the project shall be from the Stormwater Utility Fund.

SECTION 3.

Funds for Project No. 20-059 (WWAN03) of the sanitary sewer portion of the project in the amount of \$43,062.31 shall be from the Sewer User Fund.

SECTION 4.

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 5.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution and the contract to 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 \$18,157.96 for Stormwater and \$43,062.31 for sanitary sewer are hereby ratified.

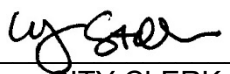
SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: June 26, 2023

BY: Vicente Martinez Ortega  
MEMBER OF CITY COUNCIL

APPROVED:   
PRESIDENT OF CITY COUNCIL

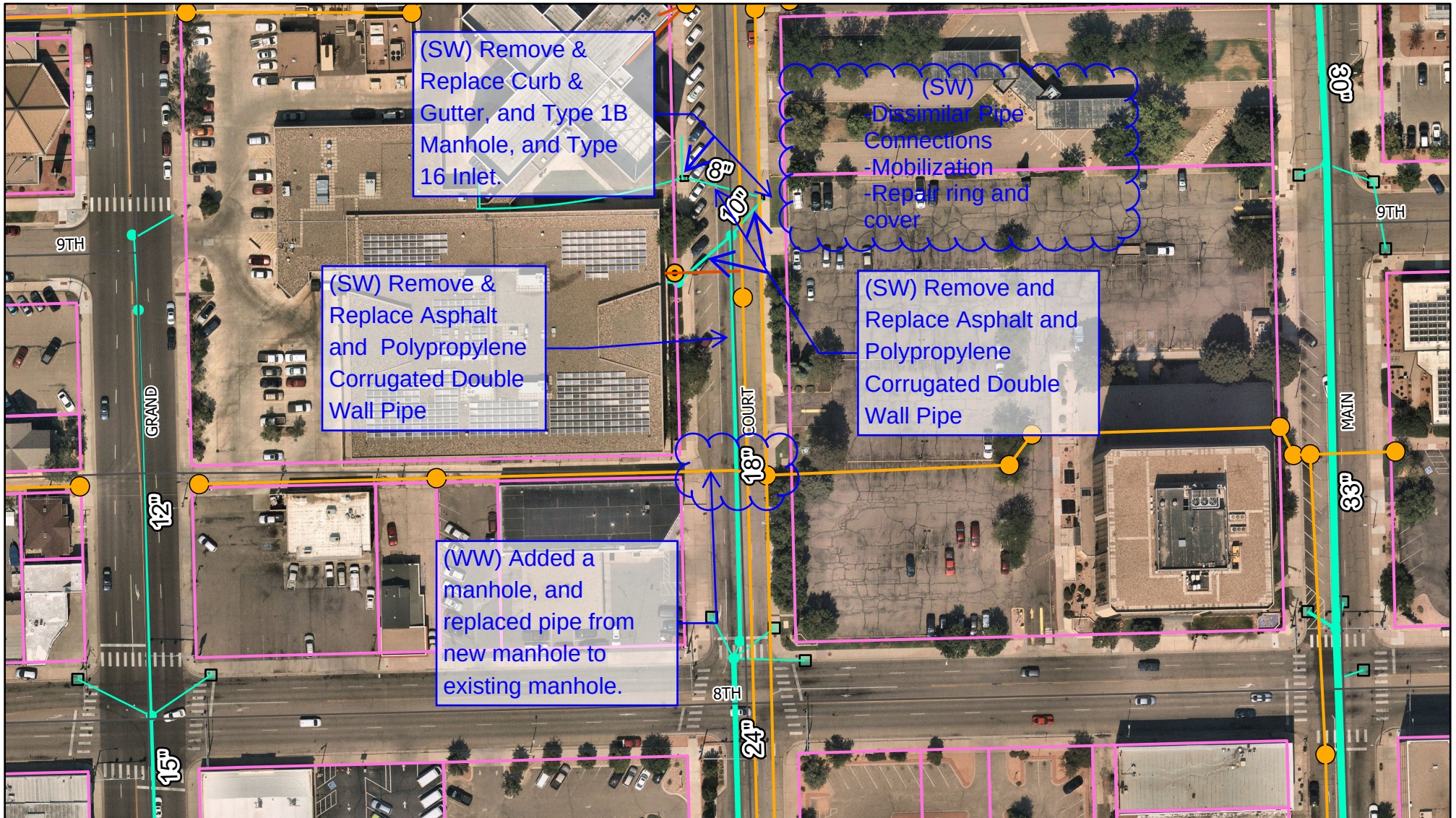
ATTESTED BY:   
CITY CLERK

| <b>2020-2022 Storm Sewer Point Repair</b> |                                                                                                                 |                 |          |                              |             |
|-------------------------------------------|-----------------------------------------------------------------------------------------------------------------|-----------------|----------|------------------------------|-------------|
| Date:                                     |                                                                                                                 | 1/5/23          |          |                              |             |
| Project Number:                           |                                                                                                                 | 20-019 (SW1501) |          |                              |             |
| Bid Item                                  | Description                                                                                                     | Bid Quantities  | Quantity | K.R. Swerdfeger Construction |             |
|                                           |                                                                                                                 |                 |          | Unit Price                   | Total Price |
| 1                                         | Remove Existing Pipe and Replace w/12" HP Polypropylene Corrugated Double Wall Pipe Less than 8' Deep           | 1-20 LF         |          | \$245.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       | 95       | \$219.00                     | \$20,805.00 |
|                                           |                                                                                                                 | >100 LF         |          | \$172.00                     |             |
| 2                                         | Remove Existing Pipe and Replace w/12" Polypropylene Corrugated Double Wall Pipe Greater than 8' up to 12' Deep | 1-20 LF         |          | \$262.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       |          | \$233.00                     |             |
|                                           |                                                                                                                 | >100 LF         |          | \$184.00                     |             |
| 3                                         | Remove Existing Pipe and Replace w/15" Polypropylene Corrugated Double Wall Pipe Less than 8' Deep              | 1-20 LF         |          | \$251.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       |          | \$231.00                     |             |
|                                           |                                                                                                                 | >100 LF         |          | \$183.00                     |             |
| 4                                         | Remove Existing Pipe and Replace w/15" Polypropylene Corrugated Double Wall Pipe Greater than 8' up to 12' Deep | 1-20 LF         |          | \$275.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       |          | \$245.00                     |             |
|                                           |                                                                                                                 | >100 LF         |          | \$195.00                     |             |
| 5                                         | Remove Existing Pipe and Replace w/18" Reinforced Conc. Pipe Less than 8' Deep                                  | 1-20 LF         |          | \$292.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       |          | \$244.00                     |             |
|                                           |                                                                                                                 | >100 LF         |          | \$200.00                     |             |
| 6                                         | Remove Existing Pipe and Replace w/18" Reinforced Conc. Pipe Greater than 8' up to 12' Deep                     | 1-20 LF         |          | \$315.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       |          | \$265.00                     |             |
|                                           |                                                                                                                 | >100 LF         |          | \$219.00                     |             |
| 7                                         | Remove Existing Pipe and Replace w/24" Reinforced Conc. Pipe Less than 8' Deep                                  | 1-20 LF         |          | \$327.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       |          | \$270.00                     |             |
|                                           |                                                                                                                 | >100 LF         |          | \$224.00                     |             |
| 8                                         | Remove Existing Pipe and Replace w/24" Reinforced Conc. Pipe Greater than 8' up to 12' Deep                     | 1-20 LF         |          | \$350.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       |          | \$291.00                     |             |
|                                           |                                                                                                                 | >100 LF         |          | \$243.00                     |             |
| 9                                         | Remove Existing Pipe and Replace w/36" Reinforced Conc. Pipe Less than 8' Deep                                  | 1-20 LF         |          | \$396.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       |          | \$330.00                     |             |
|                                           |                                                                                                                 | >100 LF         |          | \$279.00                     |             |
| 10                                        | Remove Existing Pipe and Replace w/36" Reinforced Conc. Pipe Greater than 8' up to 12' Deep                     | 1-20 LF         |          | \$422.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       |          | \$351.00                     |             |
|                                           |                                                                                                                 | >100 LF         |          | \$295.00                     |             |
| 11                                        | Remove Existing Pipe and Replace w/18" Polypropylene Corrugated Double Wall Pipe Less than 8' Deep              | 1-20 LF         |          | \$251.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       |          | \$224.00                     |             |
|                                           |                                                                                                                 | >100 LF         |          | \$177.00                     |             |
| 12                                        | Remove Existing Pipe and Replace w/18" Polypropylene Corrugated Double Wall Pipe Greater than 8' up to 12' Deep | 1-20 LF         |          | \$268.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       |          | \$238.00                     |             |
|                                           |                                                                                                                 | >100 LF         | 297      | \$189.00                     | \$56,133.00 |
| 13                                        | Remove Existing Pipe and Replace w/24" HP Polypropylene Corrugated Double Wall Pipe Less than 8' Deep           | 1-20 LF         |          | \$274.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       |          | \$244.00                     |             |
|                                           |                                                                                                                 | >100 LF         |          | \$194.00                     |             |
| 14                                        | Remove Existing Pipe and Replace w/24" Polypropylene Corrugated Double Wall Pipe Greater than 8' up to 12' Deep | 1-20 LF         |          | \$289.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       |          | \$244.00                     |             |
|                                           |                                                                                                                 | >100 LF         |          | \$209.00                     |             |
| 15                                        | Remove Existing Pipe and Replace w/36" Polypropylene Corrugated Double Wall Pipe Less than 8' Deep              | 1-20 LF         |          | \$332.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       |          | \$294.00                     |             |
|                                           |                                                                                                                 | >100 LF         |          | \$241.00                     |             |
| 16                                        | Remove Existing Pipe and Replace w/36" Polypropylene Corrugated Double Wall Pipe Greater than 8' up to 12' Deep | 1-20 LF         |          | \$348.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       |          | \$317.00                     |             |
|                                           |                                                                                                                 | >100 LF         |          | \$255.00                     |             |
| 17                                        | Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC (based on 12"-15" pipe replacement)                     | 1-20 LF         |          | \$145.00                     |             |
|                                           |                                                                                                                 | 21-100 LF       |          | \$72.00                      |             |
|                                           |                                                                                                                 | >100 LF         |          | \$65.00                      |             |

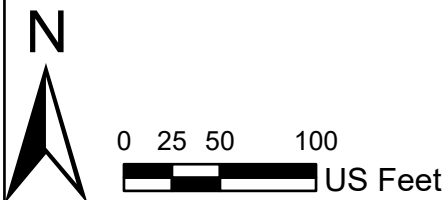


| <b>2020-2022 Storm Sewer Point Repair</b> |                                                                                             |                 |          |                              |                     |
|-------------------------------------------|---------------------------------------------------------------------------------------------|-----------------|----------|------------------------------|---------------------|
| Date:                                     |                                                                                             | 1/5/23          |          |                              |                     |
| Project Number:                           |                                                                                             | 20-019 (SW1501) |          |                              |                     |
| Bid Item                                  | Description                                                                                 | Bid Quantities  | Quantity | K.R. Swerdfeger Construction |                     |
|                                           |                                                                                             |                 |          | Unit Price                   | Total Price         |
| 18                                        | Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC (based on 18" pipe replacement)     | 1-20 LF         |          | \$145.00                     |                     |
|                                           |                                                                                             | 21-100 LF       |          | \$72.00                      |                     |
|                                           |                                                                                             | >100 LF         |          | \$65.00                      |                     |
| 19                                        | Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC (based on 24" pipe replacement)     | 1-20 LF         |          | \$150.00                     |                     |
|                                           |                                                                                             | 21-100 LF       |          | \$81.00                      |                     |
|                                           |                                                                                             | >100 LF         |          | \$77.00                      |                     |
| 20                                        | Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC (based on 36" pipe replacement)     | 1-20 LF         |          | \$178.00                     |                     |
|                                           |                                                                                             | 21-100 LF       |          | \$93.00                      |                     |
|                                           |                                                                                             | >100 LF         |          | \$92.00                      |                     |
| 21                                        | Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC (based on 12"-15" pipe replacement) | 1-20 LF         |          | \$159.00                     |                     |
|                                           |                                                                                             | 21-100 LF       | 95       | \$84.00                      | \$7,980.00          |
|                                           |                                                                                             | >100 LF         |          | \$74.00                      |                     |
| 22                                        | Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC (based on 18" pipe replacement)     | 1-20 LF         |          | \$159.00                     |                     |
|                                           |                                                                                             | 21-100 LF       |          | \$84.00                      |                     |
|                                           |                                                                                             | >100 LF         | 297      | \$74.00                      | \$21,978.00         |
| 23                                        | Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC (based on 24" pipe replacement)     | 1-20 LF         |          | \$188.00                     |                     |
|                                           |                                                                                             | 21-100 LF       |          | \$89.00                      |                     |
|                                           |                                                                                             | >100 LF         |          | \$85.00                      |                     |
| 24                                        | Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC (based on 36" pipe replacement)     | 1-20 LF         |          | \$200.00                     |                     |
|                                           |                                                                                             | 21-100 LF       |          | \$107.00                     |                     |
|                                           |                                                                                             | >100 LF         |          | \$102.00                     |                     |
| 25                                        | Remove and Replace 7" Reinforced Concrete                                                   | 1-20 SF         |          | \$25.00                      |                     |
|                                           |                                                                                             | 21-100 SF       |          | \$23.00                      |                     |
|                                           |                                                                                             | >100 SF         |          | \$17.00                      |                     |
| 26                                        | Remove and Replace 6" Reinforced Concrete                                                   | 1-20 SF         |          | \$22.00                      |                     |
|                                           |                                                                                             | 21-100 SF       |          | \$19.00                      |                     |
|                                           |                                                                                             | >100 SF         |          | \$18.00                      |                     |
| 27                                        | Remove and Replace Standard Curb and Gutter                                                 | 1-20 LF         | 17       | \$47.00                      | \$799.00            |
|                                           |                                                                                             | 21-100 LF       |          | \$35.00                      |                     |
|                                           |                                                                                             | >100 LF         |          | \$29.00                      |                     |
| 28                                        | Install Extra Lean Concrete (Flowable Fill)                                                 | 1-20 CY         |          | \$168.00                     |                     |
|                                           |                                                                                             | 21-100 CY       | 50       | \$163.00                     | \$8,150.00          |
|                                           |                                                                                             | >100 CY         |          | \$158.00                     |                     |
| 29                                        | Remove and Replace 4" Non Reinforced Concrete                                               | 1-20 SF         |          | \$36.00                      |                     |
|                                           |                                                                                             | 21-100 SF       |          | \$30.00                      |                     |
|                                           |                                                                                             | >100 SF         | 160      | \$24.00                      | \$3,840.00          |
| 30                                        | Dissimilar Pipe Connection for Pipe 15" to 20"                                              | EA              | 2        | \$582.00                     | \$1,164.00          |
| 31                                        | Dissimilar Pipe Connection for Pipe 22" to 28"                                              | EA              |          | \$743.00                     |                     |
| 32                                        | Dissimilar Pipe Connection for Pipe 30" to 42"                                              | EA              |          | \$958.00                     |                     |
| 33                                        | Remove and Replace Type 1A 48" Dia Standard                                                 | EA              |          | \$3,335.00                   |                     |
| 34                                        | Remove and Replace Type 1B 60" Dia Standard                                                 | EA              | 2        | \$4,200.00                   | \$8,400.00          |
| 35                                        | Remove and Replace Type 1C 72" Dia Standard                                                 | EA              |          | \$5,195.00                   |                     |
| 36                                        | Remove and Replace 5' Type "S" Inlet                                                        | EA              |          | \$7,790.00                   |                     |
| 37                                        | Remove and Replace Type 16 Inlet                                                            | EA              | 2        | \$8,428.00                   | \$16,856.00         |
| 38                                        | Install Tactile Band                                                                        | EA              |          | \$385.00                     |                     |
| 39                                        | Mobilization                                                                                | EA              | 1        | \$3,515.00                   | \$3,515.00          |
| 40                                        | Traffic Control                                                                             | LS              |          |                              |                     |
|                                           |                                                                                             |                 |          |                              | <b>\$149,620.00</b> |





## 909 Court Street



The City of Pueblo, Colorado does not guarantee nor provide any warranty, expressed or implied, as to the representative completeness or accuracy of maps and data provided herein



Maxar, Microsoft, Copyright nearmap 2015





City Of Pueblo

## Contract Change Order

Department Of Public Works

Project Number : 20-019

Change Order No. : 1

Date: June 13, 2023

Project Name : Court Street between 8th and 9th (EPR)

Contractor : KR Swerdferger

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

| Bid Item No. | Description of Changes                                                 | Decrease Contract By | Increase Contract By |
|--------------|------------------------------------------------------------------------|----------------------|----------------------|
| 1            | Remove & Replace 18" Poly 8' - 12' Deep >100 LF                        |                      | \$52,569.00          |
| 2            | Dissimilar Pipe Connection for Pipe 15" to 20"                         |                      | \$996.00             |
| 3            | Import/ Export Dry Material for Backfill                               |                      | \$2,676.00           |
| 4            | Traffic Control A-1 Barracade                                          |                      | \$11,093.76          |
| 5            | Potholing for Grade Verification                                       |                      | \$15,956.00          |
|              | R&R Standard Curb & Gutter 1-20 LF                                     |                      | \$423.00             |
| 6            | Repair Ring & Cover on 10th & Court                                    |                      | \$1,826.20           |
| 7            | Remove & Replace 12" Poly Less than 8' Deep 21-100 LF                  |                      | \$5,475.00           |
| 8            | Remove & Replace Asphalt 5" on 6" Class 6 for 12" - 15" Pipe 21-100 LF |                      | \$6,636.00           |
| 9            | Remove & Replace Type 1B 60" Dia Std Manhole                           | \$2,814.00           |                      |
| 10           | Remove & Replace Standard Curb and Gutter 1-20 LF                      | \$56,133.00          |                      |
| 11           | R&R Type 16 Inlet                                                      | \$16,856.00          |                      |
| 12           | Dissimilar Pipe Connection for Pipe 15" to 20"                         | \$582.00             |                      |
| 13           | R&R Asphalt 5" on Class 6 for 18" Pipe > 100 LF                        | \$3,108.00           |                      |
| <b>TOTAL</b> |                                                                        | <b>\$79,493.00</b>   | <b>\$97,650.96</b>   |

|                                        |    |           |
|----------------------------------------|----|-----------|
| Net Adjustment This Change Order       | \$ | 18157.96  |
| Amount of Previous Change Order(s)     | \$ | 0.00      |
| Original Contract Amount               | \$ | 149620.00 |
| Total Adjusted Contract Amount To Date | \$ | 167777.96 |

## Reason For Change:

For the decrease in amount items were either not needed for the project, or KR Swerdferger was able to salvage some materials. For the increase prices the additional changes were due to unforeseen circumstances because the damage was more severe than originally expected.

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

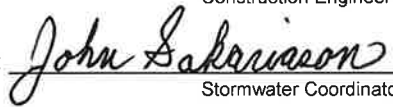
This document shall become an amendment to the contract and all provisions of the contract apply hereto. The adjustment to the contract amount and contract time, if any, made by this change order constitutes full compensation to the Contractor for the work included within this change order, and Contractor's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

Prepared by:  Date: 6/15/2023

Associate Engineer 1

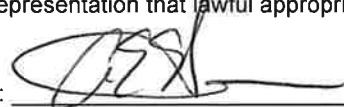
Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

Construction Engineer

Accepted by:  Date: 6/15/2023

Stormwater Coordinator

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: 6/16/2023

Director of Public Works

**CONTRACT CHANGE ORDER**  
CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS

Project Number : 20-059 (WWAN03) Change Order No. : ONE 6/14/2023 Page 1 of 1

Project Name : 2021, 2022 and 2023 Sanitary Sewer Point Repair  
Court St between 8th and 9th

Contractor : K.R. Swerdfeger  
421 E Industrial Blvd.

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 (21-100LF)                        |                      | \$6,006.00           |
| 2                                  | ASPHALT PATCH – 5" HMA ON 6" CLASS 6 ABC FOR 8" AND 10" PIPE (21'-100LF) |                      | \$3,234.00           |
| 3                                  | INSTALL EXTRA LEAN CONCRETE (FLOWFILL)                                   |                      | \$2,475.00           |
| 4                                  | REMOVE AND REPLACE 48" DIAMETER MANHOLE                                  |                      | \$4,000.00           |
| 5                                  | MOBILIZATION                                                             |                      | \$1,500.00           |
| 6                                  | TIME AND MATERIAL FOR UNIDENTIFIED VAULT                                 |                      | \$25,847.31          |
| <b>TOTAL (Decrease) / Increase</b> |                                                                          | <b>\$0.00</b>        | <b>\$43,062.31</b>   |

|                                        |    |           |
|----------------------------------------|----|-----------|
| Net Adjustment This Change Order       | \$ | 43,062.31 |
| Amount of Previous Change Order(s)     | \$ | 0.00      |
| Original Contract Amount               | \$ | 0.00      |
| Total Adjusted Contract Amount To Date | \$ | 43,062.31 |

Reason For Change: Actual Field Quantities.

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

Prepared by: \_\_\_\_\_ Date: \_\_\_\_\_  
Associate Engineer II

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_  
Wastewater Engineering Manager

Accepted by: \_\_\_\_\_ Date: \_\_\_\_\_  
Contractor's Representative

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

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Wastewater



**Background Paper for Proposed  
Resolution**

**COUNCIL MEETING DATE:** June 26, 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 \$104,718 TO TONY J BELTRAMO & SONS, INC., FOR PROJECT NO. 23-094, ASPHALT IMPROVEMENTS - SOUTH PRAIRIE AVENUE (FARABAUGH TO PRAIRIE HAWK), SETTING FORTH \$15,708 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

**SUMMARY:**

Attached is a resolution awarding a Construction Contract to Tony J Beltramo & Sons, Inc., for Project No. 23-094, Asphalt Improvements - South Prairie Avenue (Farabaugh to Prairie Hawk).

**PREVIOUS COUNCIL ACTION:**

None.

**BACKGROUND:**

This project will consist of a 2-inch asphalt overlay on Prairie Avenue from Farabaugh Lane to Prairie Hawk Lane. This Resolution awards the Construction Contract to Tony J Beltramo & Sons, Inc.

**FINANCIAL IMPLICATIONS:**

Funding (including contingencies) for the asphalt improvements, in the amount of \$120,426.00 will be paid from Project HUAN01 Street Resurfacing.

**BOARD/COMMISSION RECOMMENDATION:**

None.

**STAKEHOLDER PROCESS:**

None.

**ALTERNATIVES:**

Denial of this resolution will cancel this project.

**RECOMMENDATION:**

Approval of the Resolution.

**ATTACHMENTS:**

1. 23-094 Bid Summary

## RESOLUTION 15279

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$104,718 TO TONY J BELTRAMO & SONS, INC., FOR PROJECT NO. 23-094, ASPHALT IMPROVEMENTS - SOUTH PRAIRIE AVENUE (FARABAUGH TO PRAIRIE HAWK), SETTING FORTH \$15,708 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for Project No. 23-094, Asphalt Improvements - South Prairie Avenue (Farabaugh to Prairie Hawk) have been received and examined; and,

WHEREAS, the proposal of Tony J Beltramo & Sons, Inc., was the lowest bid determined to be responsive, and the Committee of Awards recommends to the City Council that it authorize Project No. 23-094, Asphalt Improvements - South Prairie Avenue (Farabaugh to Prairie Hawk) to be performed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

### SECTION 1.

The City Council authorizes Project No. 23-094, Asphalt Improvements - South Prairie Avenue (Farabaugh to Prairie Hawk), to be performed, and the contract for said project is hereby awarded to Tony J Beltramo & Sons, Inc., in the amount of \$104,718.00.

### SECTION 2.

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

### SECTION 3.

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

Contingencies and Additional Work.....\$15,708.00

### SECTION 4.

Funds for Project No. 23-094 (including contingencies and additional work) for asphalt improvements shall be from account Project HUAN01, Street Resurfacing.

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.

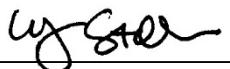
SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: June 26, 2023

BY: Vicente Martinez Ortega  
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

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**EVALUATION TABULATION**

IFB No. 23-094 (HUAN01)

Asphalt Improvements - S. Prairie Avenue (Farabaugh to Prairie Hawk)

RESPONSE DEADLINE: June 7, 2023 at 11:00 am

Report Generated: Wednesday, June 7, 2023

**SELECTED VENDOR TOTALS**

| Vendor                              | Total        |
|-------------------------------------|--------------|
| Tony J Beltramo & Sons, Inc.        | \$104,718.00 |
| Pyramid Construction, Inc.          | \$130,737.00 |
| Sunland Asphalt & Construction, LLC | \$142,492.34 |
| Martin Marietta Materials, Inc.     | \$144,509.65 |

## EVALUATION TABULATION

IFB No. 23-094 (HUAN01)

Asphalt Improvements - S. Prairie Avenue (Farabaugh to Prairie Hawk)

## BASE BID

| Selected | Line Item | Description                                  | Quantity | Unit of Measure | Martin Marietta Materials, Inc. |             | Pyramid Construction, Inc. |             | Sunland Asphalt & Construction, LLC |              | Tony J Beltramo & Sons, Inc. |             |
|----------|-----------|----------------------------------------------|----------|-----------------|---------------------------------|-------------|----------------------------|-------------|-------------------------------------|--------------|------------------------------|-------------|
|          |           |                                              |          |                 | Unit Cost                       | Total       | Unit Cost                  | Total       | Unit Cost                           | Total        | Unit Cost                    | Total       |
| X        | 1         | Install HMA PG64-22 Asphalt Overlay, 2-inch  | 779      | TONS            | \$110.05                        | \$85,728.95 | \$128.00                   | \$99,712.00 | \$150.49                            | \$117,231.71 | \$87.00                      | \$67,773.00 |
| X        | 2         | Adjust Stormwater Manholes to Finished Grade | 6        | EA              | \$1,157.00                      | \$6,942.00  | \$305.00                   | \$1,830.00  | \$236.20                            | \$1,417.20   | \$900.00                     | \$5,400.00  |
| X        | 3         | Adjust Sanitary Manholes to Finished Grade   | 3        | EA              | \$1,157.00                      | \$3,471.00  | \$305.00                   | \$915.00    | \$253.76                            | \$761.28     | \$900.00                     | \$2,700.00  |
| X        | 4         | Adjust Water Valves to Finished Grade        | 12       | EA              | \$550.00                        | \$6,600.00  | \$245.00                   | \$2,940.00  | \$198.65                            | \$2,383.80   | \$300.00                     | \$3,600.00  |
| X        | 5         | Adjust Survey Boxes to Finished Grade        | 2        | EA              | \$585.00                        | \$1,170.00  | \$245.00                   | \$490.00    | \$337.98                            | \$675.96     | \$300.00                     | \$600.00    |
| X        | 6         | Vehicle Towing Allowance                     | 1        | EA              | \$97.70                         | \$97.70     | \$300.00                   | \$300.00    | \$2,790.65                          | \$2,790.65   | \$150.00                     | \$150.00    |

## EVALUATION TABULATION

Public Improvement Invitation for Bid - Asphalt Improvements - S. Prairie Avenue (Farabaugh to Prairie Hawk)

Page 2

## EVALUATION TABULATION

IFB No. 23-094 (HUAN01)

Asphalt Improvements - S. Prairie Avenue (Farabaugh to Prairie Hawk)

| Selected | Line Item | Description                                       | Quantity | Unit of Measure | Martin Marietta Materials, Inc. |              | Pyramid Construction, Inc. |              | Sunland Asphalt & Construction, LLC |              | Tony J Beltramo & Sons, Inc. |              |
|----------|-----------|---------------------------------------------------|----------|-----------------|---------------------------------|--------------|----------------------------|--------------|-------------------------------------|--------------|------------------------------|--------------|
|          |           |                                                   |          |                 | Unit Cost                       | Total        | Unit Cost                  | Total        | Unit Cost                           | Total        | Unit Cost                    | Total        |
| X        | 7         | Install Class 6 Base Material (Place and Compact) | 5        | TON             | \$665.00                        | \$3,325.00   | \$275.00                   | \$1,375.00   | \$139.71                            | \$698.55     | \$33.00                      | \$165.00     |
| X        | 8         | Asphalt Patching (3-inches HMA on 8-inches ABC)   | 500      | SF              | \$19.95                         | \$9,975.00   | \$6.65                     | \$3,325.00   | \$8.4656                            | \$4,232.80   | \$5.60                       | \$2,800.00   |
| X        | 9         | Erosion and Sediment Control                      | 1        | LS              | \$1,180.00                      | \$1,180.00   | \$5,500.00                 | \$5,500.00   | \$3,733.33                          | \$3,733.33   | \$1,000.00                   | \$1,000.00   |
| X        | 10        | Traffic Control                                   | 1        | LS              | \$20,550.00                     | \$20,550.00  | \$7,150.00                 | \$7,150.00   | \$2,903.33                          | \$2,903.33   | \$7,000.00                   | \$7,000.00   |
| X        | 11        | Mobilization                                      | 1        | LS              | \$5,470.00                      | \$5,470.00   | \$7,200.00                 | \$7,200.00   | \$5,663.73                          | \$5,663.73   | \$13,530.00                  | \$13,530.00  |
| Total    |           |                                                   |          |                 |                                 | \$144,509.65 |                            | \$130,737.00 |                                     | \$142,492.34 |                              | \$104,718.00 |

## EVALUATION TABULATION

Public Improvement Invitation for Bid - Asphalt Improvements - S. Prairie Avenue (Farabaugh to Prairie Hawk)

Page 3

## EVALUATION TABULATION

IFB No. 23-094 (HUAN01)

Asphalt Improvements - S. Prairie Avenue (Farabaugh to Prairie Hawk)

## VENDOR QUESTIONNAIRE PASS/FAIL

| Question Title                                           | Martin Marietta Materials, Inc. | Pyramid Construction, Inc. | Sunland Asphalt & Construction, LLC | Tony J Beltramo & Sons, Inc. |
|----------------------------------------------------------|---------------------------------|----------------------------|-------------------------------------|------------------------------|
| BID GUARANTEE                                            | Pass                            | Pass                       | Pass                                | Pass                         |
| CONFIRMATION OF UNDERSTANDING AND OFFER                  | Pass                            | Pass                       | Pass                                | Pass                         |
| NAME, TITLE, AND CONTACT INFORMATION                     | Pass                            | Pass                       | Pass                                | Pass                         |
| ACKNOWLEDGEMENTS                                         |                                 |                            |                                     |                              |
| AFFIRMATIVE ACTION PLAN REQUIREMENT:                     | Pass                            | Pass                       | Pass                                | Pass                         |
| COLORADO LABOR REQUIREMENT:                              | Pass                            | Pass                       | Pass                                | Pass                         |
| SALES AND/OR USE TAX INFORMATION                         | Pass                            | Pass                       | Pass                                | Pass                         |
| Has/is this firm or any officer or partner of this firm: |                                 |                            |                                     |                              |
| Convicted of a criminal offense                          | Pass                            | Pass                       | Pass                                | Pass                         |
| Convicted under state or federal statutes                | Pass                            | Pass                       | Pass                                | Pass                         |
| Convicted under state or federal antitrust statutes      | Pass                            | Pass                       | Pass                                | Pass                         |
| Failed to perform                                        | Pass                            | Pass                       | Pass                                | Pass                         |
| Suspension or Debarment                                  | Pass                            | Pass                       | Pass                                | Pass                         |
| Unqualified                                              | Pass                            | Pass                       | Pass                                | Pass                         |
| Unlicensed                                               | Pass                            | Pass                       | Pass                                | Pass                         |

## EVALUATION TABULATION

Public Improvement Invitation for Bid - Asphalt Improvements - S. Prairie Avenue (Farabaugh to Prairie Hawk)

Page 4

EVALUATION TABULATION

IFB No. 23-094 (HUAN01)

Asphalt Improvements - S. Prairie Avenue (Farabaugh to Prairie Hawk)

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| Question Title | Martin Marietta Materials, Inc. | Pyramid Construction, Inc. | Sunland Asphalt & Construction, LLC | Tony J Beltramo & Sons, Inc. |
|----------------|---------------------------------|----------------------------|-------------------------------------|------------------------------|
| Delinquent     | Pass                            | Pass                       | Pass                                | Pass                         |
| Confirmation   | Pass                            | Pass                       | Pass                                | Pass                         |

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EVALUATION TABULATION

Public Improvement Invitation for Bid - Asphalt Improvements - S. Prairie Avenue (Farabaugh to Prairie Hawk)

Page 5



**Background Paper for Proposed  
Resolution**

**COUNCIL MEETING DATE:** June 26, 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 \$102,755.34 TO AMERICAN DIRT CONTRACTORS LLC., FOR PROJECT NO. 23-071, ELMWOOD GOLF COURSE CART PATH - PHASE 4, SETTING FORTH \$4,330.66 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

**SUMMARY:**

Attached is a resolution awarding a Construction Contract to American Dirt Contractors, LLC., for Project No. 23-071, Elmwood Golf Course Cart Path - Phase 4.

**PREVIOUS COUNCIL ACTION:**

None.

**BACKGROUND:**

This project will consist of asphalt removal and concrete improvements to the Elmwood Golf Course cart path. This is the 4th phase of the Elmwood Golf Course cart path project.

This Resolution awards the construction contract to American Dirt Contractors, LLC.

**FINANCIAL IMPLICATIONS:**

A portion of the contract, in the amount of \$101,086.00, will be paid from account Project EW2101 Cart Path Repair/Replace - Elmwood.

The remaining portion of the contract, and contingencies for this project, in the amount of \$6,000.00 will be paid from the Elmwood Golf Course Operating, Account 50161100 57070, Land Improvements.

**BOARD/COMMISSION RECOMMENDATION**

None.

**STAKEHOLDER PROCESS:**

None.

**ALTERNATIVES:**

Denial of this resolution will cancel the project.

**RECOMMENDATION:**

Approval of the Resolution.

**ATTACHMENTS:**

1. 23-071 Bid Summary

## RESOLUTION 15280

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$102,755.34 TO AMERICAN DIRT CONTRACTORS LLC., FOR PROJECT NO. 23-071, ELMWOOD GOLF COURSE CART PATH - PHASE 4, SETTING FORTH \$4,330.66 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for Project No. 23-071, Elmwood Golf Course Cart Path - Phase 4 have been received and examined; and,

WHEREAS, the proposal of American Dirt Contractors, LLC., was the lowest bid determined to be responsive, and the Committee of Awards recommends to the City Council that it authorize Project No. 23-071, Elmwood Golf Course Cart Path - Phase 4 to be performed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

### SECTION 1.

The City Council authorizes Project No. 23-071, Elmwood Golf Course Cart Path - Phase 4 to be performed, and the contract for said project is hereby awarded to American Dirt Contractors, LLC., in the amount of \$102,755.34.

### SECTION 2.

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

### SECTION 3.

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

Contingencies and Additional Work.....\$4,330.66

### SECTION 4.

Funds for a portion of the construction contract, in the amount of \$101,086.00, shall be from account Project EW2101 Cart Path Repair/Replace - Elmwood.



SECTION 5.

Funds for the remainder of the construction contract and contingencies, in the amount of \$6,000.00, shall be paid from the Elmwood Golf Course Operating, Account 50161100 57070, Land Improvements.

SECTION 6.

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.

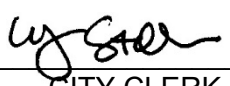
SECTION 7.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: June 26, 2023

BY: Vicente Martinez Ortega  
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. 23-071 (EW2101)  
Elmwood Golf Course Cart Path - Phase 4  
RESPONSE DEADLINE: May 31, 2023 at 10:00 am  
Report Generated: Wednesday, May 31, 2023

**SELECTED VENDOR TOTALS**

| Vendor                              | Total          | BASE BID      | BID ALTERNATE NO. 1 |
|-------------------------------------|----------------|---------------|---------------------|
| American Dirt Contractors, LLC      | \$102,755.34   | \$58,291.50   | \$44,463.84         |
| Garcia Concrete llc                 | \$118,336.85   | \$66,510.90   | \$51,825.95         |
| Sunland Asphalt & Construction, LLC | \$128,248.7339 | \$70,665.3854 | \$57,583.3485       |
| Flat and Fancy                      | \$128,763.00   | \$72,515.44   | \$56,247.56         |
| Baha Construction, Inc.             | \$138,364.00   | \$79,686.00   | \$58,678.00         |

EVALUATION TABULATION  
IFB No. 23-071 (EW2101)  
Elmwood Golf Course Cart Path - Phase 4

ELMWOOD GOLF COURSE CART PATH PHASE 4

BASE BID

| Elmwood Golf Course Cart Path Phase 4 |           |                                  |          |                 | American Dirt Contractors, LLC |             | Baha Construction, Inc. |             | Flat and Fancy |             | Garcia Concrete llc |             | Sunland Asphalt & Construction, LLC |               |
|---------------------------------------|-----------|----------------------------------|----------|-----------------|--------------------------------|-------------|-------------------------|-------------|----------------|-------------|---------------------|-------------|-------------------------------------|---------------|
| 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 Roadway           | 3313     | S.F.            | \$2.50                         | \$8,282.50  | \$4.00                  | \$13,252.00 | \$2.28         | \$7,553.64  | \$2.55              | \$8,448.15  | \$3.48                              | \$11,529.24   |
| X                                     | 2         | Construct Curb Head              | 50       | L.F.            | \$23.99                        | \$1,199.50  | \$20.00                 | \$1,000.00  | \$21.00        | \$1,050.00  | \$18.00             | \$900.00    | \$52.40                             | \$2,620.00    |
| X                                     | 3         | Construct 7" Reinforced Concrete | 3255     | S.F.            | \$14.50                        | \$47,197.50 | \$18.00                 | \$58,590.00 | \$17.56        | \$57,157.80 | \$15.25             | \$49,638.75 | \$12.5134                           | \$40,731.117  |
| X                                     | 4         | Construct Asphalt Roadway Patch  | 58       | S.F.            | \$14.00                        | \$812.00    | \$18.00                 | \$1,044.00  | \$13.00        | \$754.00    | \$18.00             | \$1,044.00  | \$82.1648                           | \$4,765.5584  |
| X                                     | 5         | Stormwater BMP's                 | 1        | L.S.            | \$250.00                       | \$250.00    | \$800.00                | \$800.00    | \$500.00       | \$500.00    | \$2,280.00          | \$2,280.00  | \$2,666.67                          | \$2,666.67    |
| X                                     | 6         | Traffic Control                  | 1        | L.S.            | \$300.00                       | \$300.00    | \$500.00                | \$500.00    | \$500.00       | \$500.00    | \$1,100.00          | \$1,100.00  | \$2,322.67                          | \$2,322.67    |
| X                                     | 7         | Mobilization                     | 1        | L.S.            | \$250.00                       | \$250.00    | \$4,500.00              | \$4,500.00  | \$5,000.00     | \$5,000.00  | \$3,100.00          | \$3,100.00  | \$6,030.13                          | \$6,030.13    |
| Total                                 |           |                                  |          |                 |                                | \$58,291.50 |                         | \$79,686.00 |                | \$72,515.44 |                     | \$66,510.90 |                                     | \$70,665.3854 |

EVALUATION TABULATION  
 IFB No. 23-071 (EW2101)  
 Elmwood Golf Course Cart Path - Phase 4

ELMWOOD GOLF COURSE CART PATH PHASE 4

BID ALTERNATE NO. 1

| Elmwood Golf Course Cart Path Phase 4 |           |                                  |          |                 | American Dirt Contractors, LLC |             | Baha Construction, Inc. |             | Flat and Fancy |             | Garcia Concrete llc |             | Sunland Asphalt & Construction, LLC |               |
|---------------------------------------|-----------|----------------------------------|----------|-----------------|--------------------------------|-------------|-------------------------|-------------|----------------|-------------|---------------------|-------------|-------------------------------------|---------------|
| 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 Roadway           | 2489     | S.F.            | \$2.50                         | \$6,222.50  | \$4.00                  | \$9,956.00  | \$2.28         | \$5,674.92  | \$2.55              | \$6,346.95  | \$3.69                              | \$9,184.41    |
| X                                     | 2         | Construct Curb Head              | 51       | L.F.            | \$23.99                        | \$1,223.49  | \$20.00                 | \$1,020.00  | \$21.00        | \$1,071.00  | \$18.00             | \$918.00    | \$51.97                             | \$2,650.47    |
| X                                     | 3         | Construct 7" Reinforced Concrete | 2444     | S.F.            | \$14.50                        | \$35,438.00 | \$18.00                 | \$43,992.00 | \$17.56        | \$42,916.64 | \$15.25             | \$37,271.00 | \$12.26                             | \$29,963.44   |
| X                                     | 4         | Construct Asphalt Roadway Patch  | 45       | S.F.            | \$17.33                        | \$779.85    | \$18.00                 | \$810.00    | \$13.00        | \$585.00    | \$18.00             | \$810.00    | \$105.9013                          | \$4,765.5585  |
| X                                     | 5         | Stormwater BMP's                 | 1        | L.S.            | \$250.00                       | \$250.00    | \$700.00                | \$700.00    | \$500.00       | \$500.00    | \$2,280.00          | \$2,280.00  | \$2,666.67                          | \$2,666.67    |
| X                                     | 6         | Traffic Control                  | 1        | L.S.            | \$300.00                       | \$300.00    | \$400.00                | \$400.00    | \$500.00       | \$500.00    | \$1,100.00          | \$1,100.00  | \$2,322.67                          | \$2,322.67    |
| X                                     | 7         | Mobilization                     | 1        | L.S.            | \$250.00                       | \$250.00    | \$1,800.00              | \$1,800.00  | \$5,000.00     | \$5,000.00  | \$3,100.00          | \$3,100.00  | \$6,030.13                          | \$6,030.13    |
| Total                                 |           |                                  |          |                 |                                | \$44,463.84 |                         | \$58,678.00 |                | \$56,247.56 |                     | \$51,825.95 |                                     | \$57,583.3485 |

EVALUATION TABULATION  
IFB No. 23-071 (EW2101)  
Elmwood Golf Course Cart Path - Phase 4

---

**VENDOR QUESTIONNAIRE PASS/FAIL**

| Question Title                                           | American Dirt Contractors, LLC | Baha Construction, Inc. | Flat and Fancy | Garcia Concrete llc | RMRM INC Business enviornments | Sunland Asphalt & Construction, LLC |
|----------------------------------------------------------|--------------------------------|-------------------------|----------------|---------------------|--------------------------------|-------------------------------------|
| BID GUARANTEE                                            | Pass                           | Pass                    | Pass           | Pass                | No Response                    | Pass                                |
| CONFIRMATION OF UNDERSTANDING AND OFFER                  | Pass                           | Pass                    | Pass           | Pass                | No Response                    | Pass                                |
| NAME, TITLE, AND CONTACT INFORMATION                     | Pass                           | Pass                    | Pass           | Pass                | No Response                    | Pass                                |
| ACKNOWLEDGEMENTS                                         |                                |                         |                |                     |                                |                                     |
| AFFIRMATIVE ACTION PLAN REQUIREMENT:                     | Pass                           | Pass                    | Pass           | Pass                | No Response                    | Pass                                |
| COLORADO LABOR REQUIREMENT:                              | Pass                           | Pass                    | Pass           | Pass                | No Response                    | Pass                                |
| SALES AND/OR USE TAX INFORMATION                         | 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                | No Response                    | Pass                                |
| Convicted under state or federal statutes                | Pass                           | Pass                    | Pass           | Pass                | No Response                    | Pass                                |
| Convicted under state or federal antitrust statutes      | Pass                           | Pass                    | Pass           | Pass                | No Response                    | Pass                                |
| Failed to perform                                        | Pass                           | Pass                    | Fail           | Pass                | No Response                    | Pass                                |

EVALUATION TABULATION  
IFB No. 23-071 (EW2101)  
Elmwood Golf Course Cart Path - Phase 4

---

| Question Title          | American Dirt Contractors, LLC | Baha Construction, Inc. | Flat and Fancy | Garcia Concrete llc | RMRM INC Business enviornments | Sunland Asphalt & Construction, LLC |
|-------------------------|--------------------------------|-------------------------|----------------|---------------------|--------------------------------|-------------------------------------|
| Suspension or Debarment | Pass                           | Pass                    | Pass           | Pass                | No Response                    | Pass                                |
| Unqualified             | Pass                           | Pass                    | Pass           | Pass                | No Response                    | Pass                                |
| Unlicensed              | Pass                           | Pass                    | Pass           | Pass                | No Response                    | Pass                                |
| Delinquent              | Pass                           | Pass                    | Pass           | Pass                | No Response                    | Pass                                |
| Confirmation            | Pass                           | Pass                    | Pass           | Pass                | No Response                    | Pass                                |



**Background Paper for Proposed  
Resolution**

**COUNCIL MEETING DATE:** June 26, 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 \$47,946.00 FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT FOR THE PURCHASE OF BLEACHERS - STAUTER FIELD A GOVERNMENT PROJECT AS SUTHORIZED BY SECTION 603(C)(1) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

**SUMMARY:**

This Resolution authorizes the transfer of funds in the amount of \$47,946.00 for purchase of bleachers for Stauter Field. This transfer 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:**

Not applicable to this Resolution.

**BACKGROUND:**

In 2019, all bleachers were removed from the City ball fields due to COVID-19. Since their removal, it was determined that the bleachers did not meet minimum safety height requirements and would require guardrails.

During the June 5, 2023, Work Session, it was requested by members of City Council that City staff should also request ARPA funds to replace the bleachers at Stauter Field.

The bleacher replacements will be part of a City recreation facility located in a Qualified Census Tract and an eligible use of ARPA funds. 31C.F.R. 35.6(b)(3)(ii)(A)(11)(ii).

**FINANCIAL IMPLICATIONS:**

Funding in the amount of \$47,946.00 is available and will be paid out of Project CI2113 – American Rescue Plan.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable to this Resolution.

**STAKEHOLDER PROCESS:**

Not applicable to this Resolution.

**ALTERNATIVES:**

City Council could decide not to authorize the ARPA funds for the purchase of the bleachers.

**RECOMMENDATION:**

Approval of the Resolution.

**ATTACHMENTS:**

1. SalesQuote\_06082301CO



RESOLUTION NO. 15281

A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF \$47,946.00 FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT FOR THE PURCHASE OF BLEACHERS - STAUTER FIELD A GOVERNMENT PROJECT AS SUTHORIZED BY SECTION 603(C)(1) OF THE AMERICAN RESCURE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The transfer of funds in the amount of \$47,946.00 is hereby authorized from Project CI2113 - American Rescue Plan Act for the purchase of bleachers - Stauter Field.

SECTION 2.

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

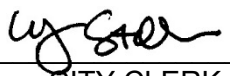
SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED: June 26, 2023

BY: Vicente Martinez Ortega  
MEMBER OF CITY COUNCIL

APPROVED:   
PRESIDENT OF CITY COUNCIL

ATTESTED BY:   
CITY CLERK



# Kay Park Recreation

Making People Places, People Friendly Since 1954

Sales@kaypark.com; www.kaypark.com  
1301 Pine Street  
Janesville, IA 50647-1028  
Phone: 800-553-2476; Fax: 319-987-2127

## Sales Quote

Page 1 of 1

Quote ID: 06082301CO  
Quote Date: 06/08/2023  
Date Printed: 06/08/2023  
Prepared By: KAMMEYER, BROOKLYN

XDIRECT

Quote To: CITY OF PUEBLO  
800 GOODNIGHT AVENUE  
PUEBLO, CO 81005

Ship To: PARKS AND REC DEPT

PUEBLO, CO 81005

Contact: MICHAEL SEXTON  
Phone: 719-553-2804  
Fax:  
E-Mail: MSEXTON@PUEBLO.US  
WEB  
CITYPK

Carrier: ESTES

Payment Terms:

b 24 Hour Call Ahead  
Liftgate  
.. Residential Delivery

| Item | Model and Description (Below)                                            | Color Information (If Applicable) | List Price | Disc (%) | Net Price  | Qty | Item Total  |
|------|--------------------------------------------------------------------------|-----------------------------------|------------|----------|------------|-----|-------------|
| 1.   | BLA5A15V4F4<br>5 ROW ALM BLEACHER W/ALM PLANK 15' W/VERT 4" RAIL & FTBDS |                                   | \$6,210.00 | 10.00 %  | \$5,589.00 | 8   | \$44,712.00 |

**TOTAL SAVINGS IF YOU ORDER IN NEXT FIVE DAYS!**

**\$4,968.00**

**Total Weight: 8504 Lbs.**

Please note we will need a copy of your tax exemption certificate upon ordering, thank you!

**Sub-Total: \$44,712.00**  
**Shipping/Handling: \$3,234.00**  
**Total Amount: \$47,946.00**

Freight charges do not include off loading unless liftgate is checked.

Freight charges may vary due to fuel surcharges.

Site preparation and assembly not included.

**Due to volatile material costs quotes are only good for 15 days.**



**Background Paper for Proposed  
Resolution**

**COUNCIL MEETING DATE:** June 26, 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 \$45,000 FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT FOR SKATEBOARD PARK IMPROVEMENTS AS A GOVERNMENT PROJECT AS AUTHORIZED BY SECTION 603(C)(1) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

**SUMMARY:** This Resolution authorizes the transfer of funds in the amount of \$45,000.00 for skateboard park improvements. This transfer 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:**

Not applicable to this Resolution.

**BACKGROUND:**

During City Council Work Session on April 17, 2023, Mr. Brian Rivera presented his Skateboard Park proposal to improve and beautify the City's parks and river trail system by teaching construction trade basics by creating concrete skateboard park amenities which will be located in J.J. Raigoza Park, Moynihan Park, and the Sergeant Blake Harris Skateboard Park in City Park. Mr. Rivera will recruit young people who are interested in learning practical trade skills and work with them to apply the learned skills while gaining valuable job skills, team work, and confidence while benefiting the Pueblo community.

City Council was supportive of Mr. Rivera's proposal and directed staff to bring a request for ARPA funds to Council for approval of Mr. Rivera's project. Mr. Rivera will work closely with the Parks and Recreation Department to find ideal locations for his projects.

The skateboard park improvements will be part of a City recreation facilities located in the Qualified Census Tract and an eligible use of ARPA funds. 31C.F.R. (b)(3)(ii)(A)(11)(ii).

**FINANCIAL IMPLICATIONS:**

Funding in the amount of \$45,000.00 is available and will be paid out of Project CI2113 – American Rescue Plan.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable to this Resolution.

**STAKEHOLDER PROCESS:**

Not applicable to this Resolution.

**ALTERNATIVES:**

City Council could decide not to authorize the ARPA funds for the skateboard park improvements.

**RECOMMENDATION:**

Approval of the Resolution.

**ATTACHMENTS:**

1. Skateboard Park Improvement Presentation 04.17.23

RESOLUTION NO. 15282

A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF \$45,000 FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT FOR SKATEBOARD PARK IMPROVEMENTS AS A GOVERNMENT PROJECT AS AUTHORIZED BY SECTION 603(C)(1) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The transfer of funds in the amount of \$45,000 is hereby authorized from Project CI2113 - American Rescue Plan Act for Skateboard Park Improvements as a government project to be administered by the Parks and Recreation Department of the City.

SECTION 2.

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

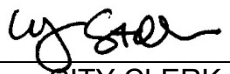
SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED: June 26, 2023

BY: Vicente Martinez Ortega  
MEMBER OF CITY COUNCIL

APPROVED:   
PRESIDENT OF CITY COUNCIL

ATTESTED BY:   
CITY CLERK



MORNING STAR

:: creations ::



# index

About Morning Star Creations

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Rewards

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# About Morning Star Creations



Venus is our muse, a planet of love and art.

Our mission is to improve our city's parks and river trail system by creating fun for all age groups.

Beautifying our community by doing litter clean-up and removal of graffiti.

To inspire and teach the beautiful world of industrial arts and the lost world of construction.



# Benefits

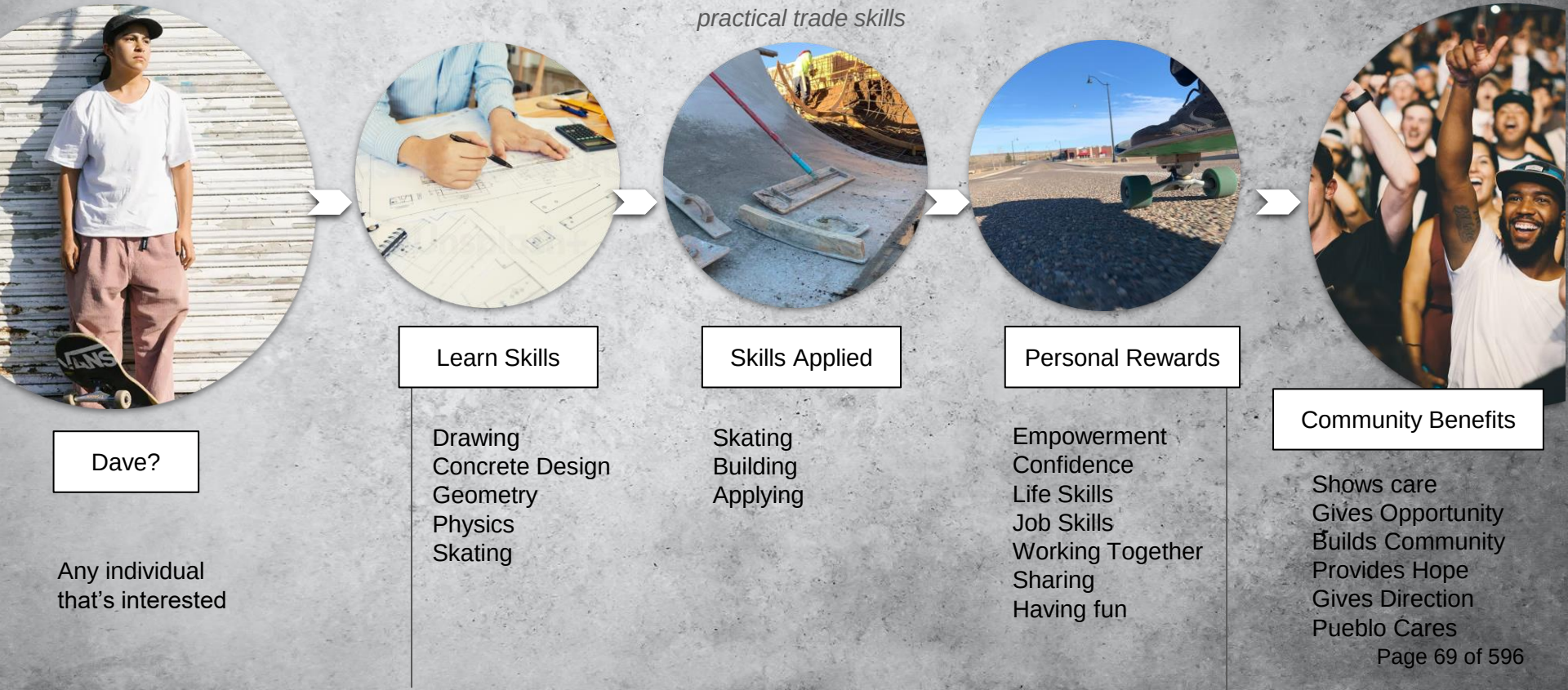
- Individual enrichment - how individuals learn, use, play, build....
- Collective involvement - working with others, learning and building together...
- Community Development - a place to learn, share and be involved in collaborative community development. Putting Pueblo on the map.....
- The movement of movement - enhancing the community with positive outlets that will enable individuals to practice or find the art of movement...

# Rewards

- Learn how to make concrete
- Learn how to make concrete molds (skate molds, benches, furniture, anything concrete.)
- Apply learning to your interests - what can you do with these new skills
- Working together as a group to learn from each other
- Build something to use. Lets skate.
- Beautification of each area, clean up and enhance
- Pueblo to be a skate hotspot
- QR code points to tricks and places in the park this video, GPS location



# How it works



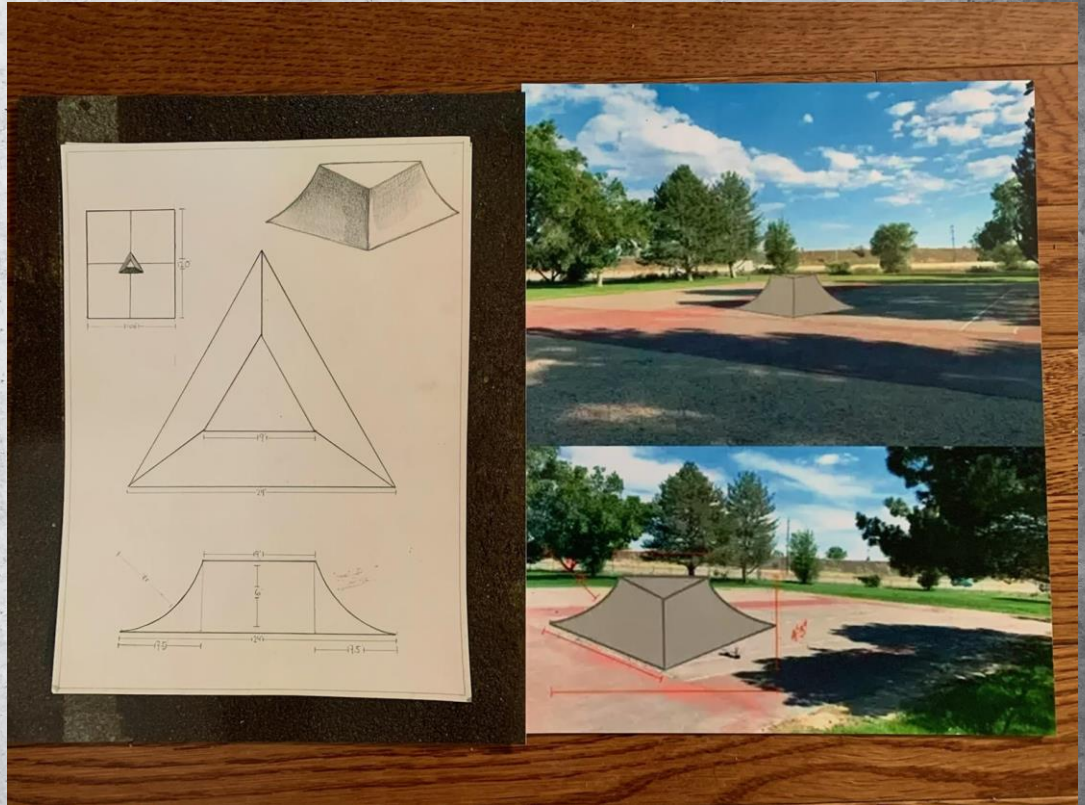


# Locations - J.J. Raigoza Park

## J.J. Raigoza Park



- Concrete Classes
- Form Building Classes
- Skate Classes
- 3 Sided Pyramid - special feature
- Estimated cost is \$15,000.00

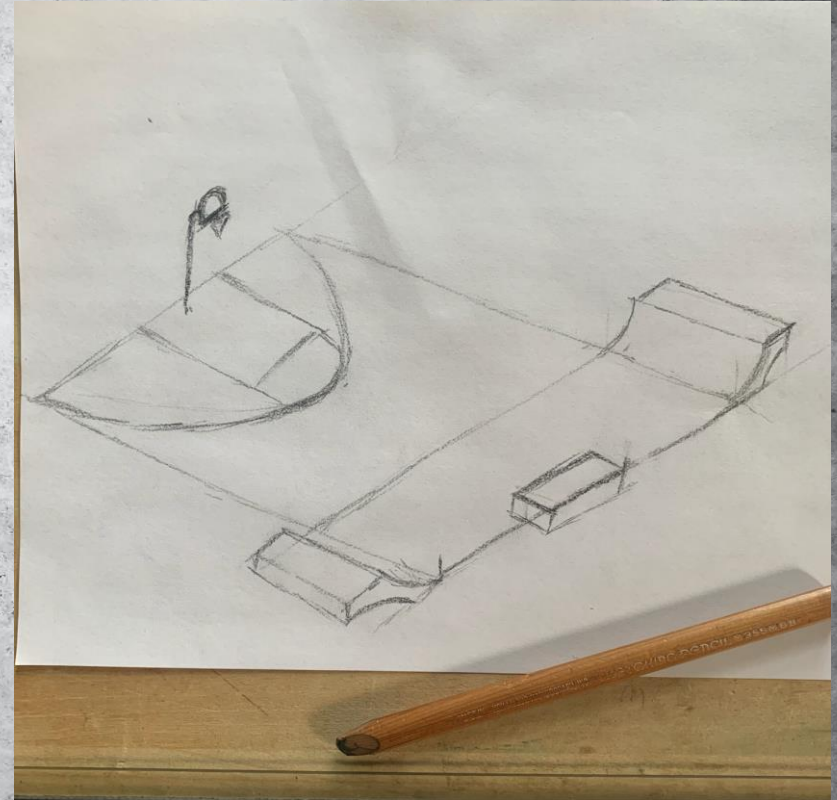


# Locations - Moynihan Park

## Moynihan Park

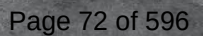
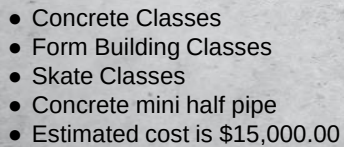


- Concrete Classes
- Form Building Classes
- Skate Classes
- Quarter pipes and fun box
- Estimated cost is \$15,000.00





## Sergeant Blake Harris Skateboard Park





# Locations

Moynihan Park



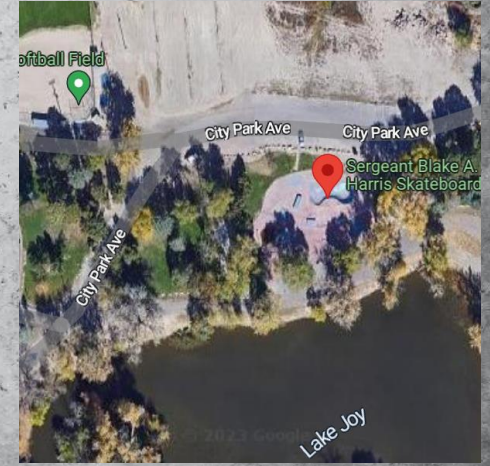
- Concrete Classes
- Form Building Classes
- Skate Classes
- Quarter pipes and fun box

J.J. Raigoza Park



- Concrete Classes
- Form Building Classes
- Skate Classes
- 3 Sided Pyramid - special feature

Sergeant Blake Harris Skateboard Park



- Concrete Classes
- Form Building Classes
- Skate Classes
- Concrete mini half pipe

# Timing

For each individual project it will take approximately four weeks from start to finish. Thank you very much!





**Background Paper for Proposed  
Action Item**

**COUNCIL MEETING DATE:** June 26, 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:** A RESOLUTION TRANSFERRING \$15,000.00 FROM PROJECT NO. CD2018 INTO PROJECT NO. CD2112 SUNNY SIDE NEIGHBORHOOD IMPROVEMENTS FOR INFRASTRUCTURE AT SAGE STREET AND WINDY WAY. THE PROJECT WAS A NEIGHBORHOOD DRIVEN INITIATIVE TO IMPROVE ACCESSIBILITY NEAR THE GOODNIGHT SCHOOL.

**SUMMARY:**

This Resolution transfers money from prior Project No. CD2018 into Project No. CD2112 Sunny Side Neighborhood Improvements for infrastructure at Sage Street and Windy Way. The project was a neighborhood driven initiative to improve accessibility near the Goodnight School.

**PREVIOUS COUNCIL ACTION:**

Council previously authorized Project No. CD2112 Sunny Side Neighborhood Improvements.

**BACKGROUND:**

To comply with the Americans with Disabilities Act (ADA), the City of Pueblo installs ADA compliant infrastructure to increase accessibility throughout the city for those with disabilities. This funding will be utilized to complete accessibility improvements at the intersection of Sage Street and Windy Way.

**FINANCIAL IMPLICATIONS:**

Not applicable to this Resolution.

**BOARD/COMMISSION RECOMMENDATION:**

The Citizen Advisory Committee recommended funding the project.

**STAKEHOLDER PROCESS:**

Neighborhood input was received as a basis for design.

**ALTERNATIVES:**

Council could elect not to allow the transfer and the project would be scaled back to meet the original \$100,000.00 budget.

**RECOMMENDATION:**

Approval of the Resolution.

**ATTACHMENTS:**

None

RESOLUTION NO. 15283

A RESOLUTION TRANSFERRING \$15,000.00 FROM PROJECT NO. CD2018 INTO PROJECT NO. CD2112 SUNNY SIDE NEIGHBORHOOD IMPROVEMENTS FOR INFRASTRUCTURE AT SAGE STREET AND WINDY WAY. THE PROJECT WAS A NEIGHBORHOOD DRIVEN INITIATIVE TO IMPROVE ACCESSIBILITY NEAR THE GOODNIGHT SCHOOL.

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Funds in the amount of \$15,000.00 are hereby transferred from Project No. CD2018 into Project No. CD2112 for Sunnyside Neighborhood Improvements.

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.

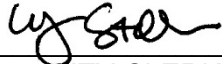
SECTION 3.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: June 26, 2023

BY: Vicente Martinez Ortega  
MEMBER OF CITY COUNCIL

APPROVED:   
PRESIDENT OF CITY COUNCIL

ATTESTED BY:   
CITY CLERK



**Background Paper for Proposed Resolution**

**COUNCIL MEETING DATE:** June 26, 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 APPROVING AMENDMENT NO. 2 TO THE AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND AECOM TECHNICAL SERVICES, INC., IN THE AMOUNT OF \$25,294.50 FOR 21-071, STORMWATER DEPARTMENT ENGINEER OF RECORD – WEST 29<sup>TH</sup> DRAINAGE IMPROVEMENTS, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

**SUMMARY:**

This Resolution approves Amendment No. 2 to the Professional Consulting Services Agreement awarded to AECOM Technical Services, Inc. (AECOM), in the amount of \$25,294.50 for Project No. 21-071, Stormwater Department Engineer of Record – West 29<sup>th</sup> Drainage Improvements.

**PREVIOUS COUNCIL ACTION:**

Resolution 12263, dated November 14, 2011, approved professional engineering services with Drexel, Barrell & CO. The project was never completed. Ordinance 10123 dated February 14, 2022, approved selection of AECOM as the Engineer of Record for the Stormwater Utility Department. Ordinance 10263, dated August 8, 2022, approved an agreement for professional engineering services in the amount of \$158,846.98 to AECOM, for Project No. SW1808.

**BACKGROUND:**

The Stormwater Utility Department requested design services to alleviate flooding problems in the residential neighborhood areas along West 29th Street. This project was previously studied, and design plans were produced in 2012. AECOM will incorporate new requirements from Colorado 811 SB-18-167, evaluate cost saving alternatives, and revise the cost estimate to most recent prices for the 2012 design.

Amendment 1 was an amendment for engineering services to restore test hole areas in the amount of \$14,332.50 approved as a minor amendment to the contract pursuant to Section 1-5-2(2)(f), P.M.C.

Amendment 2 to the contract will provide additional work for the project including survey and design services for pipe segments required to be rehabilitated that are located in the construction footprint of the storm sewer construction project, project management, preparation of a sanitary sewer plan and profiles.

**FINANCIAL IMPLICATIONS:**

Funding for the original Agreement (\$158,846.98), Amendment #1 (\$14,332.50), Amendment #2 (\$25,294.50) will be paid from account 525-41500-53001, Professional Services.

**BOARD/COMMISSION RECOMMENDATION:**

None.

**STAKEHOLDER PROCESS:**

None.

**ALTERNATIVES:**

Denial of this resolution will cancel the design of the additional improvements requested by the Wastewater Department.

**RECOMMENDATION:**

Approval of the Resolution.

**ATTACHMENTS:**

1. 06-26-23 W 29th St Amendment to Contract Attachment

RESOLUTION NO. 15284

A RESOLUTION APPROVING AMENDMENT NO. 2 TO THE AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND AECOM TECHNICAL SERVICES, INC., IN THE AMOUNT OF \$25,294.50 FOR 21-071, STORMWATER DEPARTMENT ENGINEER OF RECORD – WEST 29<sup>TH</sup> DRAINAGE IMPROVEMENTS, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS,  
Project No. 21-071 Stormwater Department Engineer of Record – West 29<sup>th</sup> Drainage Improvements Project was awarded to AECOM Technical Services, Inc., on August 8, 2022; and

WHEREAS, additional design and engineering work contemplated by Amendment No. 2 is needed; and

WHEREAS, it is in the best interest of the City to proceed with and complete such design in the manner herein provided; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The Amendment No. 2, by and between the City of Pueblo, a Municipal Corporation, and AECOM Technical Services, Inc., a Colorado Corporation, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved, and City Council authorizes the additional work contemplated by Amendment No. 2 to be performed in the amount of \$25,294.50

SECTION 2.

Funds in the amount of \$25,294.50 will be paid from account 525-41500-53001, Professional Services.

SECTION 3.

The Purchasing Agent is hereby authorized to execute Amendment No. 2 on behalf of the City of Pueblo, a Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest same.

SECTION 4.

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

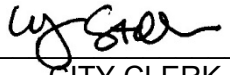
SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: June 26, 2023

BY: Vicente Martinez Ortega  
MEMBER OF CITY COUNCIL

APPROVED:   
PRESIDENT OF CITY COUNCIL

ATTESTED BY:   
CITY CLERK



## **AMENDMENT NO. 2 TO THE AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES BY AND BETWEEN CITY OF PUEBLO AND AECOM TECHNICAL SERVICES, INC.**

This Amendment No. 2 to the Agreement for Professional Engineering Services ("Amendment") is executed to be effective as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between the City of Pueblo, Colorado, a Colorado Municipal Corporation ("Owner") and AECOM Technical Services, Inc., a California Corporation authorized to do business in the State of Colorado ("Engineer"). Owner and Engineer are sometimes referred to herein as a "Party" and collectively, as the "Parties."

WITNESSETH THAT:

WHEREAS, Owner and Engineer entered into that certain Agreement for Professional Engineering Services dated March 1, 2022 for Bid 21-071 Stormwater Department Engineer of Record - West 29th Drainage Improvements and Amendment No. 1 dated \_\_\_\_\_ (collectively the "Agreement"); and

WHEREAS, Owner and Engineer desire to modify the Agreement pursuant to the provisions set forth herein.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual promises set forth herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Owner and Engineer hereby agree to the following:

### AGREEMENT

1. The Agreement is amended by expanding the scope of work to include the following additional services:

Engineer will provide additional design services for two (2) sanitary sewer pipe segments located in the construction footprint of the storm sewer construction project as identified in the map included in Attachment A.

2. Attachment A to this Amendment No. 2 shall be additional work as agreed upon by Engineer and Owner, and Engineer shall complete the work items as generally described in said Attachment A in accordance with the terms of the Agreement and any and all prior amendments thereto.

3. With respect to services provided under the Amendment No. 2, the fee schedule attached as Attachment B to this Amendment No. 2 shall apply to compensation payable to Engineer. The aggregate compensation payable to the Engineer for performance of the additional services authorized by this Amendment No. 2 shall not exceed the maximum amount of \$25,294.50 as set forth in Attachment B notwithstanding whether the service is billed as Time and Material and notwithstanding any additional charges by Engineer's subconsultant SAM which may be incurred by Engineer which are not approved as additional work by Owner under the Agreement. The maximum amount of compensation for any phase shall not exceed the amount specified in Attachment B for such phase.

4. Additionally, the Engineer's Work Schedule shall be extended two (2) months from the start date of this additional work as outlined by the number of days in Attachment B.

5. This Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

6. Except as expressly modified by this Amendment No. 2, the Agreement shall remain in full force and effect. Except as modified by this Amendment No. 2, any obligations to be performed under the Agreement by either party are not waived nor excused in any manner but shall be performed in accordance with the terms and conditions of the Agreement as it existed prior to this Amendment No. 2.

7. 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. 2 have set forth their hand, to be effective as of the effective date shown above.

CITY OF PUEBLO, A MUNICIPAL CORPORATION

AECOM TECHNICAL SERVICES, INC.

By \_\_\_\_\_  
Naomi C. Hedden, Director of Purchasing

By \_\_\_\_\_  
[Signature, Title]

Attest \_\_\_\_\_  
Marisa Stoller, City Clerk

[SEAL]

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

\_\_\_\_\_  
Alexandria Romero, Finance Director

APPROVED AS TO FORM

\_\_\_\_\_  
Robert P. Jagger, City Attorney

Attachment(s): Attachment A - Scope of Services for Additional Work  
Attachment B - Fee Schedule for Additional Work  
Attachment C – Revised Work Schedule  
Additional Information for Amendment

## Attachment A

### Additional Scope of Service

Excerpt of letter to Owner from Engineer dated June 5, 2023

The additional scope of work will provide survey and design services to be included in the West 29th Street Drainage Improvements Project for two sanitary sewer pipe segments located in the construction footprint of the storm sewer construction project. The mains to be rehabilitated are identified in the attached map. Pipe segment from MH 435982.3 to MH 435980.8 located in West 29th Street from Skyview Avenue to San Isabel Avenue crosses an existing storm culvert must be replaced. There are fractures and breaks on the main and the ductile iron pipe at the crossing of the storm and sanitary sewer is tuberculated. Pipe segment from MH 445985.5 to MH 445982.2 crossing West 29th Street between Denver Boulevard and Cheyenne Avenue is a 6" main and must be upsized to an 8" diameter pipe.

At this time, AECOM would also request an extension of time necessary to complete this task on our Stormwater Department Engineer of Record contract. This project was modified to complete by **May 18<sup>th</sup>, 2023** and the revised completion schedule shows a submission of the 100% plan set with wastewater sheet inclusion within **two months** after change request NTP from the City.

*Continue to following page*

# West 29th Drainage Improvements Scope of Work – Addition of Sanitary Sewer Replacements

06/05/2023

## Project Summary

The W. 29<sup>th</sup> Drainage Improvements project is located in the northwest portion of the City of Pueblo. Specifically, along W. 29<sup>th</sup> Street from Adrian Avenue to Franklin Avenue. The goal of this project is to alleviate flooding problems in the residential neighborhood areas along W. 29<sup>th</sup> Street. In addition to the original stormwater scope of work, AECOM will add the replacement of two sections of sanitary sewer pipe to the project. No other design modifications to the original scope are included within this contract change order.

## Project Management and Data Collection Task Descriptions

This section describes the management tasks for the project. The added project duration is anticipated to be two months. It is anticipated that four additional meetings with the City will occur over the duration of the project.

### Task 1 – Project Management:

AECOM will perform the following:

1. Initial Project Meetings. The team will conduct an internal project kick-off meeting in accordance with our quality management requirements.
2. Project Management. AECOM will coordinate the work tasks being accomplished by the AECOM Project Team with the City of Pueblo.
3. Monthly Invoices

### Task 2 – Survey

This task involves tying into the project control network and providing a topographic field survey of sanitary lines to be replaced along West 29<sup>th</sup> Street. The topographic survey will be within the existing right of way of West 29<sup>th</sup> Street, therefore no Permission to Enter private property is included in this estimate. The right of way model drawings and coordinate system from the preliminary design completed 2012 will be used to delineate the right of way limits.

### Field Survey

AECOM will utilize existing control monuments within the project corridor. Fast Static GPS observations will be acquired on existing NGS monuments. The topographic survey will include only necessary information for the replacement of sewer lines between MH435982.3 to MH 435980.8 and MH 445985.5 to MH 445982.2. The 2012 mapping will be updated with this additional survey data.

1. Control Network verification
2. Topographic survey of existing sewer features for replacement segments.

### Deliverables

CAD file of topography and planimetric.

DTM file of newly survey features for West 29th Street sewer replacements.

### **Task 3 – 90% Design**

AECOM will add plan sheets to facilitate the replacement of two sanitary sewer pipe segments from MH 435982.3 to MH 435980.8 located in West 29th Street from Skyview Avenue to San Isabel Avenue and Pipe segment from MH 445985.5 to MH 445982.2 crossing West 29<sup>th</sup> Street between Denver Boulevard and Cheyenne Avenue that is a 6" main and must be upsized to an 8" diameter pipe. The project cost will be updated from the original the 2012 cost estimate with 2022 unit prices for new items of work.

#### **Deliverables:**

Updates to sheets will be clouded in the overall plan set to demonstrate the addition. AECOM will provide a note on each plan sheet documenting the design completed by AECOM and by others. AECOM will only stamp the plan and profile sheets for the revised storm pipe material and sewer pipe segments. AECOM will not stamp plans for the design completed by others.

1. Coversheet Notes will be revised to include updated notes from the City. (1 Sheets)
2. 90% Sanitary Sewer Plan and Profile (include removals and replacement) (3 Sheets)
3. 90% Details (1 Sheet)
4. 90% Quantities and Cost Estimate revisions
5. 90% Specifications

### **Task 4– 100% Design**

AECOM will incorporate comments from the City and progress the 90% to 100%. It is assumed that review comments at 90% are minor and will not require significant re-design to advance to 100%. Updates to sheets will be clouded. AECOM will provide a note on each plan sheet documenting the design completed by AECOM and by others. AECOM will only stamp the plan and profile sheets for the revised storm pipe material and sewer pipe segments. AECOM will not stamp plans for the design completed by others.

#### **Deliverables:**

1. Coversheet Notes (1 Sheets)
2. 100% Plan and Profile (include removals and replacement) (3 Sheets)
3. 100% Details (1 Sheet)
4. 100% Quantities and Cost Estimate
5. 100% Specifications

## **Assumptions & Exclusions:**

#### **Assumptions:**

The following are assumption are made in the development of this scope of work.

1. Elevations will be established from found NGS monument V 393 using differential levels. It is assumed that V 393 is in good condition and undisturbed. Pueblo will verify survey control points within the project, AECOM will compare to the previous survey.
2. There will not be further SUE investigation and survey will collect sewer inverts and manhole cover information to incorporate into the 2012 basemap only.
3. Evaluation of sanitary sewer hydraulic model is excluded.
4. Evaluation of sanitary sewer capacities is excluded.
5. Evaluation of sewer collection system outside of the replaced pipe segments is not included.

6. AECOM will stamp the storm and sanitary plan and profile sheets. There will be no analysis of sanitary pipe material. AECOM is not responsible for the utility master plan updates or design.

**Exclusions:**

1. The following are not included in this scope and their inclusion is subject to a change in scope, schedule and/or fee: No roadway and ADA design have been added in this scope.
2. No proposed pond design.
3. No Geotechnical design. The City of Pueblo will provide pavement design to AECOM.
4. No structural design for stormwater manholes have been added in this scope. Standard details will be modified by Contractors and reviewed and accepted by the City.
5. No channel design work will be completed at the storm outfall.
6. No ROW Plans are included in the scope of this work.
7. No Utility coordination will be included in this scope. The city will coordinate all Utility relocations.
8. Public meetings or any communication with the public
9. No ROW or adjacent property lines will be established between ownerships.
10. No permission to enter private property.
11. No additional ROW or Easements will be required for this project.
12. All other engineering services not identified in this scope of work are excluded, including but not limited to master utility reports, traffic operational analysis, value engineering studies, traffic studies, traffic counts or turn arrow warrant studies, timing studies, pedestrian/architectural lighting, landscaping.







# Attachment B

# Additional Services – Fee Schedule

Excerpt of letter to Owner from Engineer dated June 5, 2023

| <b>DETAILED WORK-HOUR ESTIMATE</b><br><b>AECOM Technical Services, Inc</b><br><b>7595 Technology Way</b><br><b>Denver, CO 80237</b><br><br><b>Project Name: W. 29th St</b><br><b>DESIGN WORKHOUR SUMMARY</b><br><b>Date: June 5th, 2023</b><br><br><b>Pueblo 2022 Rate Table</b> | Project Management |                           | Survey       |                        |          |           | Water and Sanitary |                           |                           |               | Total<br>Hours | Subs     | Total<br>Labor<br>Cost |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|---------------------------|--------------|------------------------|----------|-----------|--------------------|---------------------------|---------------------------|---------------|----------------|----------|------------------------|
|                                                                                                                                                                                                                                                                                  | PM                 | PC/PA                     | Task Lead    | Survey                 | Survey   | Survey    | Task Lead          | Project Engineer          | CADD                      | Quality Check |                |          |                        |
|                                                                                                                                                                                                                                                                                  | Senn               | Wood                      | Vernulycia   | Hansen                 | Stemisch | Dentson   | Cole               | Williams                  | Blaine                    | Berzins       |                |          |                        |
|                                                                                                                                                                                                                                                                                  | Project 5          | Assistant/Support Staff 7 | Consultant 3 | Technician Assistant 2 | PLS II   | PLS II    | Consultant 4       | Assistant/Support Staff 7 | Assistant/Support Staff 5 | Consultant 1  |                | Sam, LLC |                        |
|                                                                                                                                                                                                                                                                                  |                    |                           |              |                        |          |           |                    |                           |                           |               |                |          |                        |
| <b>TASK 1: PROJECT MANAGEMENT</b>                                                                                                                                                                                                                                                |                    |                           |              |                        |          |           |                    |                           |                           |               |                |          |                        |
| 1.1 Project Setup                                                                                                                                                                                                                                                                | 2                  | 2                         |              |                        |          |           |                    |                           |                           |               | 4              |          | \$ 648.00              |
| 1.2 Internal Kick-off Meeting with design team                                                                                                                                                                                                                                   | 2                  |                           | 2            |                        |          |           | 2                  |                           |                           |               | 6              |          | \$ 1,432.00            |
| 1.3 Monthly Invoices                                                                                                                                                                                                                                                             | 3                  | 3                         |              |                        |          |           |                    |                           |                           |               | 6              |          | \$ 972.00              |
| <b>SUBTOTAL TASK 1: PROJECT MANAGEMENT</b>                                                                                                                                                                                                                                       | <b>7</b>           | <b>5</b>                  | <b>2</b>     | <b>0</b>               | <b>0</b> | <b>0</b>  | <b>2</b>           | <b>0</b>                  |                           | <b>0</b>      | <b>16</b>      |          | <b>\$ 3,052.00</b>     |
| <b>TASK 2: FIELD SURVEY</b>                                                                                                                                                                                                                                                      |                    |                           |              |                        |          |           |                    |                           |                           |               |                |          |                        |
| 2.1 Field Survey                                                                                                                                                                                                                                                                 | 2                  |                           | 4            | 8                      | 8        |           |                    |                           |                           |               | 22             |          | \$ 3,042.00            |
| 2.2 Update Basemap                                                                                                                                                                                                                                                               |                    |                           | 4            |                        |          | 16        |                    |                           |                           |               | 20             |          | \$ 3,080.00            |
| <b>SUBTOTAL TASK 2: SURVEY</b>                                                                                                                                                                                                                                                   | <b>2</b>           | <b>0</b>                  | <b>8</b>     | <b>8</b>               | <b>8</b> | <b>16</b> | <b>0</b>           | <b>0</b>                  |                           | <b>0</b>      | <b>42</b>      |          | <b>\$ 6,122.00</b>     |
| <b>TASK 3: 90% DESIGN SANITARY SEWER</b>                                                                                                                                                                                                                                         |                    |                           |              |                        |          |           |                    |                           |                           |               |                |          |                        |
| 4.1 Sanitary Sewer Plans                                                                                                                                                                                                                                                         | 2                  |                           |              |                        |          |           | 4                  | 8                         | 16                        | 2             | 32             |          | \$ 4,454.00            |
| 4.2 Detail Sheets                                                                                                                                                                                                                                                                |                    |                           |              |                        |          |           | 2                  | 4                         | 4                         | 2             | 12             |          | \$ 1,854.00            |
| 4.3 Quantities and Cost Estimate                                                                                                                                                                                                                                                 |                    |                           |              |                        |          |           | 2                  | 8                         |                           |               | 10             |          | \$ 1,514.00            |
| 4.4 Specifications                                                                                                                                                                                                                                                               |                    |                           |              |                        |          |           | 2                  | 4                         |                           | 2             | 8              |          | \$ 1,462.00            |
| <b>SUBTOTAL TASK 6: 90% DESIGN</b>                                                                                                                                                                                                                                               | <b>2</b>           | <b>0</b>                  | <b>0</b>     | <b>0</b>               | <b>0</b> | <b>0</b>  | <b>10</b>          | <b>24</b>                 |                           | <b>6</b>      | <b>62</b>      |          | <b>\$ 9,284.00</b>     |
| <b>TASK 4: 100% DESIGN SANITARY SEWER</b>                                                                                                                                                                                                                                        |                    |                           |              |                        |          |           |                    |                           |                           |               |                |          |                        |
| 4.1 Sanitary Sewer Plans                                                                                                                                                                                                                                                         | 2                  |                           |              |                        |          |           | 2                  | 4                         | 8                         | 2             | 18             |          | \$ 2,648.00            |
| 4.2 Detail Sheets                                                                                                                                                                                                                                                                |                    |                           |              |                        |          |           | 2                  | 2                         | 2                         | 2             | 8              |          | \$ 1,412.00            |
| 4.3 Quantities and Cost Estimate                                                                                                                                                                                                                                                 |                    |                           |              |                        |          |           | 2                  | 4                         |                           |               | 6              |          | \$ 1,022.00            |
| 4.4 Specifications                                                                                                                                                                                                                                                               |                    |                           |              |                        |          |           | 2                  | 4                         |                           | 2             | 8              |          | \$ 1,462.00            |
| <b>SUBTOTAL TASK 7: 100% DESIGN</b>                                                                                                                                                                                                                                              | <b>2</b>           | <b>0</b>                  | <b>0</b>     | <b>0</b>               | <b>0</b> | <b>0</b>  | <b>8</b>           | <b>14</b>                 |                           | <b>6</b>      | <b>40</b>      |          | <b>\$ 6,544.00</b>     |
|                                                                                                                                                                                                                                                                                  |                    |                           |              |                        |          |           |                    |                           |                           |               |                |          |                        |
| <b>GRAND TOTAL LABOR:</b>                                                                                                                                                                                                                                                        | <b>13</b>          | <b>5</b>                  | <b>10</b>    | <b>8</b>               | <b>8</b> | <b>16</b> | <b>20</b>          | <b>38</b>                 |                           | <b>12</b>     | <b>160</b>     | <b>0</b> | <b>\$ 25,002.00</b>    |
| <b>GRAND TOTAL:</b>                                                                                                                                                                                                                                                              |                    |                           |              |                        |          |           |                    |                           |                           |               |                |          | <b>\$ 25,294.50</b>    |

## OTHER DIRECT COST RATES:

| ITEM                           | ESTIMATED UNITS | UNIT RATES      |
|--------------------------------|-----------------|-----------------|
| Vehicle Expense (personal m    | 500             | \$ 0.585 292.50 |
| Postage, Express Mail, Courier |                 | \$ - \$ -       |
| Major Reproduction (Myfars)    |                 | \$ -            |
|                                |                 | \$ -            |
|                                |                 | 292.50          |

(1) Company owned or leased field vehicles (cars, pickups, vans, trucks, etc.) used on project assignments will be charged at the current mileage rate established by the Internal Revenue Service. The mileage charge for personal vehicles will be the current mileage rate established by the Internal Revenue Service.

(2) The cost of communications and transmittals (postage, express mail, courier, etc.) will be charged at cost.

(3) The cost of other direct costs (field supplies, report binding supplies, leased or rented field equipment, etc.) will be charged at cost.

## ADDITIONAL INFORMATION FOR AMENDMENT

Certificate of Good Standing

Insurance Certificate(s)

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Information

## Summary

| Details                          |                                                              |                |                     |
|----------------------------------|--------------------------------------------------------------|----------------|---------------------|
| Name                             | AECOM Technical Services, Inc.                               |                |                     |
| Status                           | Good Standing                                                | Formation date | 12/10/1996          |
| ID number                        | 19961159924                                                  | Form           | Foreign Corporation |
| Periodic report month            | December                                                     | Jurisdiction   | California          |
| Principal office street address  | 300 South Grand Avenue, 9th Floor, Los Angeles, CA 90071, US |                |                     |
| Principal office mailing address | 300 South Grand Avenue, 9th Floor, Los Angeles, CA 90071, US |                |                     |

| Registered Agent |                                                                      |
|------------------|----------------------------------------------------------------------|
| Name             | C T Corporation System                                               |
| Street address   | 7700 E ARAPAHOE RD STE 220, CENTENNIAL, CO 80112-1268, United States |
| Mailing address  | 7700 E ARAPAHOE RD STE 220, CENTENNIAL, CO 80112-1268, United States |

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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,

AECOM Technical Services, Inc.

is an entity formed or registered under the law of California, 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 19961159924.

This certificate reflects facts established or disclosed by documents delivered to this office on  
paper through 06/05/2023 that have been posted, and by documents delivered to this office  
electronically through 06/06/2023 @ 09:42:30.

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 06/06/2023 @ 09:42:30 in accordance with applicable law.  
This certificate is assigned Confirmation Number 15041448.



*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."

ADD INSURANCE



**Background Paper for Proposed  
Resolution**

**COUNCIL MEETING DATE:** June 26, 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-23-20) TO THE DIOCESE OF PUEBLO FOR THE USE OF THE PUBLIC RIGHT-OF-WAY ALONG CLARK STREET FROM B STREET TO THE SOUTHERN TERMINUS ADJACENT TO THE ARKANSAS RIVER LEVEE FOR THE PURPOSE OF HOSTING OUR LADY OF MOUNT CARMEL'S ANNUAL FESTIVAL AND PROCESSION FROM JULY 15 THROUGH JULY 16, 2023.

**SUMMARY:**

Attached is a resolution authorizing the issuance of a Revocable Permit submitted by the Diocese of Pueblo for the purpose of hosting Our Lady of Mount Carmel's Annual Festival and Procession.

**PREVIOUS COUNCIL ACTION:**

None.

**BACKGROUND:**

The Diocese of Pueblo has submitted a Revocable Permit (REV-23-20) application requesting to close Clark Street from B Street to the southern terminus adjacent to the Arkansas River Levee for the purpose of hosting Our Lady of Mount Carmel's Annual Festival and Procession from July 15, through July 16, 2023.

**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 hosting Our Lady of Mount Carmel's Annual Festival and Procession.

**RECOMMENDATION:**

Approval of the Resolution.

**ATTACHMENTS:**

1. NOTARIZED REVOCABLE PERMIT 23-20



RESOLUTION NO. 15285

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-23-20) TO THE DIOCESE OF PUEBLO FOR THE USE OF THE PUBLIC RIGHT-OF-WAY ALONG CLARK STREET FROM B STREET TO THE SOUTHERN TERMINUS ADJACENT TO THE ARKANSAS RIVER LEVEE FOR THE PURPOSE OF HOSTING OUR LADY OF MOUNT CARMEL'S ANNUAL FESTIVAL AND PROCESSION FROM JULY 15 THROUGH JULY 16, 2023.

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The attached Revocable Permit (REV-23-20) is authorized to be issued to the Diocese of Pueblo for the use of the public right-of-way along Clark Street from B Street to the southern terminus adjacent to the Arkansas River Levee for the purpose of hosting Our Lady of Mount Carmel's Annual Festival and Procession from July 15, 2023, through July 16, 2023.

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.

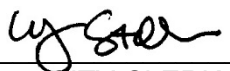
SECTION 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: June 26, 2023

BY: Vicente Martinez Ortega  
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: **Diocese of Pueblo 101 N. Greenwood Street, Pueblo, CO (719) 544-9861  
421 Clark Street, Pueblo, CO**
2. Permitted Area:

**Clark Street from B Street to the southern terminus adjacent to the Arkansas River levee.**

3. Purpose of Revocable Permit:

**Closure of the roadway to vehicular traffic to host Our Lady of Mount Carmel's annual festival and procession**

4. Commencement Date: **July 15, 2023** Time: **5:30 p.m.**
5. Ending Date: **July 16, 2023** Time: **10:00 p.m.**

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).

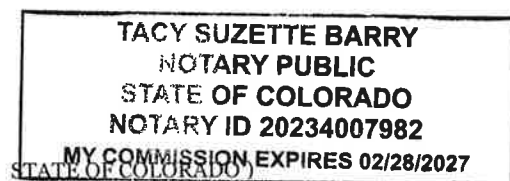
(n) Permittee acknowledges and agrees that this Permit is temporary and subject to revocation or termination by resolution of the City Council of City, in its sole discretion, for any reason or no reason, at anytime, without liability to City, and without notice to or hearing by Permittee. Permittee 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 13<sup>th</sup> day of June, 2023.



**PERMITTEE:**

Organization or

Individual:

By:

Title:

Diocese of Pueblo  
Ronald S. Martinez  
Event Coordinator

COUNTY OF PUEBLO ) SS..

The foregoing instrument was acknowledged before me the 13<sup>th</sup> day of June, 2023 by Ronald Martinez as event coordinator.

My commission expires: 02/28/2027

Tacy Suzette Barry  
Notary Public

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
PUEBLO, a Municipal Corporation

By \_\_\_\_\_

Nicholas A. Gradisar, Mayor



**Background Paper for Proposed Resolution**

**COUNCIL MEETING DATE:** June 26, 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-23-21) TO THE GREATER PUEBLO CHAMBER OF COMMERCE FOR THE USE OF THE PUBLIC RIGHT-OF-WAY ALONG "B" STREET FROM UNION AVENUE TO SAN PEDRO STREET AND VICTORIA AVENUE FROM "B" STREET TO "C" STREET FOR THE PURPOSE OF FACILITATING THEIR GREAT RACE EVENT ON JULY 01, 2023.

**SUMMARY:**

Attached is a resolution authorizing the issuance of a Revocable Permit (REV-23-21) submitted by the Greater Pueblo Chamber of Commerce for their Great Race Event.

**PREVIOUS COUNCIL ACTION:**

None.

**BACKGROUND:**

The Greater Pueblo Chamber of Commerce has submitted a Revocable Permit (REV-23-21) application requesting to close "B" Street from Union Avenue to San Pedro Street and Victoria Avenue from "B" Street to "C" Street for the purpose of facilitating their Great Race Event on July 01, 2023.

**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 hosting their race.

**RECOMMENDATION:**

Approval of the Resolution.

**ATTACHMENTS:**

1. REVOCABLE PERMIT 23-21

RESOLUTION NO. 15286

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-23-21) TO THE GREATER PUEBLO CHAMBER OF COMMERCE FOR THE USE OF THE PUBLIC RIGHT-OF-WAY ALONG "B" STREET FROM UNION AVENUE TO SAN PEDRO STREET AND VICTORIA AVENUE FROM "B" STREET TO "C" STREET FOR THE PURPOSE OF FACILITATING THEIR GREAT RACE EVENT ON JULY 01, 2023.

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The attached Revocable Permit (REV-23-18) is authorized to be issued to the Greater Pueblo Chamber for the use of the right-of-way on "B" Street from Union Avenue to San Pedro Street and Victoria Avenue from "B" Street to "C" Street for the Great Race 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.

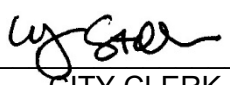
SECTION 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: June 26, 2023

BY: Vicente Martinez Ortega  
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: **Greater Pueblo Chamber of Commerce 302 N. Santa Fe Ave. Pueblo, Co., 81003 719-542-1704 3 Wren Way Pueblo, Co., 81005**

2. Permitted Area:

**B Street from Union Avenue to San Pedro Street and Victoria Avenue from B Street to C Street.**

3. Purpose of Revocable Permit:

**Closure of the roadway to vehicular traffic for the purpose of facilitating the Great Race Event.**

4. Commencement Date: **July 1, 2023** Time: **1pm**

5. Ending Date: **July 1, 2023** Time: **8pm**

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:** June 26, 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-23-26) TO THE PUEBLO PERFORMING ARTS GUILD FOR THE USE OF THE PUBLIC RIGHT-OF-WAY ALONG SOUTH GRAND AVENUE BETWEEN CITY CENTER DRIVE AND VICTORIA STREET FOR THE PURPOSE OF FACILITATING THEIR FIRST CREATIVE CORRIDOR JAZZ CONCERT, JULY 7, THROUGH JULY 8, 2023.

**SUMMARY:**

Attached is a resolution authorizing the issuance of a Revocable Permit submitted by the Pueblo Performing Arts Guild for their first Creative Corridor Jazz Concert.

**PREVIOUS COUNCIL ACTION:**

None.

**BACKGROUND:**

The Pueblo Performing Arts Guild has submitted a Revocable Permit (REV-23-26) application requesting to close South Grand Avenue between City Center Drive and Victoria Street for the purpose of facilitating their first Creative Corridor Jazz Concert, July 7 through July 8, 2023.

**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 hosting their jazz concert.

**RECOMMENDATION:**

Approval of the Resolution.

**ATTACHMENTS:**

None

RESOLUTION NO. 15287

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-23-26) TO THE PUEBLO PERFORMING ARTS GUILD FOR THE USE OF THE PUBLIC RIGHT-OF-WAY ALONG SOUTH GRAND AVENUE BETWEEN CITY CENTER DRIVE AND VICTORIA STREET FOR THE PURPOSE OF FACILITATING THEIR FIRST CREATIVE CORRIDOR JAZZ CONCERT, JULY 7, THROUGH JULY 8, 2023.

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The attached Revocable Permit (REV-23-26) is authorized to be issued to the Pueblo Performing Arts Guild for the use of the right-of-way along South Grand Avenue between City Center Drive and Victoria Street for the purpose of facilitating their first Creative Corridor Jazz Concert, July 7 through July 8, 2023.

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.

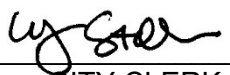
SECTION 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: June 26, 2023

BY: Vicente Martinez Ortega  
MEMBER OF CITY COUNCIL

APPROVED:   
PRESIDENT OF CITY COUNCIL

ATTESTED BY:   
CITY CLERK



**Background Paper for Proposed  
Resolution**

**COUNCIL MEETING DATE:** June 26, 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-23-22) TO BEP PUEBLO HOSPITALITY, LLC., FOR THE PURPOSE OF INSTALLING LANDSCAPING IMPROVEMENTS ON PERMITTEE'S PROPERTY TO THE RIGHT-OF-WAY AREA ADJACENT TO 6020 NORTH ELIZABETH STREET BETWEEN THE SIDEWALK AND CURB AND GUTTER.

**SUMMARY:**

Attached is a draft Revocable Permit (REV-2-22) to be approved for issuance to BEP Pueblo Hospitality, LLC.

**PREVIOUS COUNCIL ACTION:**

None.

**BACKGROUND:**

The applicant has submitted a Revocable Permit application (REV-23-22) requesting to install landscaping improvements to the public right-of-way adjacent to 6020 North Elizabeth Street between the sidewalk and curb and gutter. The Pueblo Municipal Code allows property owners and developers to meet the minimum landscaping requirements of the zoning district by installing certain landscaping improvements within the right-of-way upon issuance of a revocable permit authorizing them to do so.

**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 installing the landscaping improvements in the right-of-way.

**RECOMMENDATION:**

Approval of the Resolution.

**ATTACHMENTS:**

1. Revocable Permit REV-23-22



RESOLUTION NO. 15288

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-23-22) TO BEP PUEBLO HOSPITALITY, LLC., FOR THE PURPOSE OF INSTALLING LANDSCAPING IMPROVEMENTS ON PERMITTEE'S PROPERTY TO THE RIGHT-OF-WAY AREA ADJACENT TO 6020 NORTH ELIZABETH STREET BETWEEN THE SIDEWALK AND CURB AND GUTTER.

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The attached Revocable Permit is authorized to be issued to BEP Pueblo Hospitality, LLC., for use of the right-of-way to install landscaping improvements to the right-of-way adjacent to 6020 N. Elizabeth Street between the sidewalk and curb and gutter.

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.

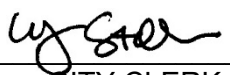
SECTION 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: June 26, 2023

BY: Vicente Martinez Ortega  
MEMBER OF CITY COUNCIL

APPROVED:   
PRESIDENT OF CITY COUNCIL

ATTESTED BY:   
CITY CLERK

**LANDSCAPING REVOCABLE PERMIT**  
(Section 17-4-7 Pueblo Municipal Code)

Pursuant to Section 16-9 of the Charter of the City of Pueblo ("City") the City Council of City hereby grants a revocable permit to the Permittee named herein for the sole purpose of installing and maintaining landscaping in the Permitted Area herein described, subject to and conditioned upon the provisions, covenants and conditions contained herein and Permittee's compliance therewith:

1. Permittee's name and address: **BEP Pueblo Hospitality, LLC; 25587 Conifer Rd, STE 105-313, Conifer, CO 80433-9067 303-638-3075**
2. Legal description and street address of real property owned by Permittee subject to Section 17-4-7 of the Pueblo Municipal Code ("Permittee's Property"): **Lot 2, Pueblo Crossing Filing No. 2 (6020 N. Elizabeth Street, Pueblo, CO, 81008)**
3. "Permitted Area" means and includes that portion of the public right-of-way adjacent to Permittee's Property shown on the attached Landscape Plan. **ROW area adjacent to 6020 N. Elizabeth Street between the sidewalk and curb and gutter.**

In consideration of the issuance and granting of this Revocable Permit, Permittee represents, warrants and agrees as follows:

1. Permittee shall within 90 days from date hereof, or prior to issuance of a Certificate of Occupancy, whichever is earlier, install landscaping on Permittee's Property and in the Permitted Area in compliance with the Section 17-4-7 of the Pueblo Municipal Code and as shown on the attached Landscape Plan.
2. Permittee shall keep, maintain and replace the landscaping as required by Section 17-4- 7(b)(8)(b) of the Pueblo Municipal Code or any substituted provision thereof.
3. This Revocable Permit shall automatically terminate and be revoked upon the revocation or termination of this Revocable Permit by Resolution of the City Council of City. Permittee acknowledges and agrees that this Revocable Permit is temporary and subject to revocation or termination by the City Council of City for any reason, at any time, without notice to or hearing by Permittee, and Permittee waives any and all claim to any such notice and hearing.
4. **Immediately upon termination of this Revocable Permit, Permittee shall**
  - (a) remove the landscaping from the Permitted Area and no longer use the Permitted Area for any purpose;**
  - (b) replace and relocate landscaping on Permittee's Property which meets and complies with Section 17-4-7 of the Pueblo Municipal Code or any substituted provision thereof; and**
  - (c) meet and comply with all applicable off-street parking requirements set forth in Sections 17-4-42, 17-4-43, 17-4-44 and 17-4-45 of the Pueblo Municipal Code on Permittee's Property or other property allowed under said Sections of the Pueblo Municipal Code or any substituted provision thereof.**
5. If Permittee fails for any reason to timely perform and comply with the requirements and provisions of this Revocable Permit, City, in addition to all other remedies provided by law, may revoke the certificate of occupancy for the building on Permittee's Property.
6. The covenants of this Revocable Permit shall run with Permittee's Property and shall extend to, be binding upon, and inure to the benefit of City and Permittee and their respective heirs, personal representatives, successors and assigns. This Revocable Permit will be recorded in the office of the Pueblo County Clerk and Recorder. The Permittee shall pay all fees associated with recording.
7. 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 Revocable Permit or the conditions hereof, or the existence, construction, installation, repair or maintenance of the landscaping in the Permitted Area, or the use of the Permitted Area by Permittee, its officers, agents, employees, invitees or general public.

Executed at Pueblo, Colorado the \_\_\_\_\_ 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:** June 26, 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 JENNIFER THORNTON TO SERVE A FOUR-YEAR TERM EXPIRING AUGUST 30, 2027 ON THE ADA ADVISORY COMMITTEE

**SUMMARY:**

This Resolution confirms the appointment by the Mayor of Jennifer Thornton to serve a four-year term expiring on August 30, 2027 on the ADA Advisory Committee.

**PREVIOUS COUNCIL ACTION:**

The Mayor has made appointments to the ADA Advisory Committee selecting individuals to serve terms which expire during a particular calendar year and presented them to Council for approval.

**BACKGROUND:**

The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990 and was amended most recently in January 2009. The ADA is a wide-ranging civil rights law that prohibits discrimination based on disability. Disability is defined as "a physical or mental impairment that substantially limits a major life activity," such as walking, seeing, hearing, breathing, thinking, socializing, and working, for example. The ADA includes a list of impairments to major life activities. For more information about what the ADA says, go to the ADA website.

Appointments for this committee are now being processed through the Mayor's Office. Following an announcement in the on the City's website and social media seeking volunteers to serve on this committee, an application was received.

**FINANCIAL IMPLICATIONS:**

This a volunteer committee and members serve without compensation.

**BOARD/COMMISSION RECOMMENDATION:**

The Committee recommends approval of this applicant.

**STAKEHOLDER PROCESS:**

None.

**ALTERNATIVES:**

Remove from the agenda and re-advertise for additional applications.

**RECOMMENDATION:**

Approval of the Resolution.

**ATTACHMENTS:**

None.

RESOLUTION NO. 15289

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF  
JENNIFER THORNTON TO SERVE A FOUR-YEAR TERM EXPIRING AUGUST  
30, 2027 ON THE ADA ADVISORY COMMITTEE

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Jennifer Thornton to ADA Advisory Committee to serve a four-year term expiring August 30, 2027; NOW, THEREFORE;

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Jennifer Thornton is hereby appointed to the ADA Advisory Committee to serve a four-year term expiring August 30, 2027.

SECTION 2.

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

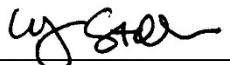
SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED: June 26, 2023

BY: Vicente Martinez Ortega  
MEMBER OF CITY COUNCIL

APPROVED:   
PRESIDENT OF CITY COUNCIL

ATTESTED BY:   
CITY CLERK



**Background Paper for Proposed  
Ordinance**

**COUNCIL MEETING DATE:** June 26, 2023

**TO:** President Heather Graham and Members of City Council

**CC:** Mayor Nicholas A. Gradisar

**VIA:** Marisa Stoller, City Clerk

**FROM:** Laura Solano, Chief of Staff

**SUBJECT:** 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 wellness 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 (updated for July 10 2023)

## 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 July 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 \_\_\_\_\_.

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 10th day of July, 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 wellness 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 wellness 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 (Wellness 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 wellness 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 wellness 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 wellness 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 wellness 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 including but not limited to any lien and/or contractor and subcontractor releases requested 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. PROHIBITION

At no time during the term of this Agreement and for a period of five years thereafter, subject to and as set forth in below Paragraph 6, shall Subrecipient use any portion of the Project including the property at 219 W. Northern Ave., Pueblo, CO 81004, for the purposes of any syringe services or needle exchange services. Violation of this condition shall result in Subrecipient being liable and obligated to pay City all funds disbursed to Subrecipient under this Agreement and shall result in termination of this Agreement for cause.

## 6. TERM OF PROJECT AND AGREEMENT

The term of the Project shall be from Effective Date set forth above to December 31, 2026 unless sooner terminated as herein provided. The provisions of this Agreement pertaining to Prohibition, Subrecipient records, monitoring and evaluation, files and information, insurance and liability shall survive the expiration of the term of this Agreement and any other termination of this Agreement and continue in effect for a period of five years following any such termination of this Agreement and for such further time as it may take to completely and finally negotiate, settle, or litigate any claim or suit concerning the same.

## 7. 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.

## 8. 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.

## 9. 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.

#### 10. 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.

#### 11. 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.

#### 12. 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.

#### 13. 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.

14. 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.

15. 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.

16. 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 16 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

27. 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



## **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 wellness 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 wellness 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.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING PROJECT PL2305, SAFE STREETS & ROADS FOR ALL - SS4A, AND APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE FEDERAL HIGHWAY ADMINISTRATION, AWARD NUMBER: 693JJ32340380 IN THE AMOUNT OF \$681,600, TRANSFERRING \$170,400 FROM CI2204 TO PL2305, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$852,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

SECTION 1.

The Safe Streets & Roads for All - SS4A Project PL2305, is hereby established.

SECTION 2.

The Intergovernmental Agreement ("IGA") between the City of Pueblo, a Colorado Municipal Corporation, and the Federal Highway Administration (FHWA), Award Number: 693JJ32340380, Safe Streets & Roads for All - SS4A Project, a copy of which is attached, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

Funds in the amount of \$170,400 are hereby transferred from Project CI2204 to Project PL2305, Safe Streets & Roads for All - SS4A Project and budgeted and appropriated for the Safe Streets & Roads for All - SS4A Project PL2305.

SECTION 4.

Subject to encumbrances by the Federal Highway Administration (FHWA), and funds from the Safe Streets for All - SS4A Program Award Number 693JJ32340380 in the amount of \$852,000 are hereby budgeted and appropriated for the Safe Streets & Roads for All - SS4A Project, PL2305.

SECTION 5.

The Mayor is authorized to execute and deliver the IGA in the name of the City of Pueblo and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 6.

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

SECTION 7.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

**Action by City Council:**

Introduced and initial adoption of Ordinance by City Council on \_\_\_\_\_.

Final adoption of Ordinance by City Council on \_\_\_\_\_.

\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☐ Approved on \_\_\_\_\_.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Mayor

**Action by City Council After Disapproval by the Mayor:**

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of \_\_\_\_\_, on \_\_\_\_\_

☐ Council action on \_\_\_\_\_ failed to override the Mayor's veto.

\_\_\_\_\_  
President of City Council

ATTEST

\_\_\_\_\_  
City Clerk



**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 26, 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 ESTABLISHING PROJECT PL2305, SAFE STREETS & ROADS FOR ALL - SS4A, AND APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE FEDERAL HIGHWAY ADMINISTRATION, AWARD NUMBER: 693JJ32340380 IN THE AMOUNT OF \$681,600, TRANSFERRING \$170,400 FROM CI2204 TO PL2305, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$852,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

**SUMMARY:**

This Ordinance creates Project PL2305 for Safe Streets & Roads for All - SS4A Project, and approves an Intergovernmental Agreement ("IGA") between Pueblo, a Colorado Municipal Corporation ("City") and the Federal Highway Administration ("FHWA") relating to the Safe Streets 4 All Planning Grant in the amount of \$681,600, transfers funds in the amount of \$170,400 for the required 20% match, and budgets and appropriates funds totaling \$852,000 for the Project.

**PREVIOUS COUNCIL ACTION:**

None.

**BACKGROUND:**

This Ordinance establishes the Safe Streets & Roads for All - SS4A project and approves the grant agreement between the City and FHWA.

The City submitted a Safe Streets 4 All Planning Grant to hire a consultant or consultants to create an evidence-based Action Plan that will facilitate life-saving redesigns that significantly reduce or eliminate roadway fatalities and serious injuries. The Comprehensive safety plan will be developed through interaction between multiple community stakeholder groups to identify projects and programs that will help

contribute to improving the safety of pedestrians, bicyclists and vehicles.

**FINANCIAL IMPLICATIONS:**

The matching funds in the amount of \$170,400 are being transferred from Project CI2204 to PL2305.

Funds in the amount of \$852,000 shall be budgeted and appropriated for Project PL2305.

**BOARD/COMMISSION RECOMMENDATION:**

None.

**STAKEHOLDER PROCESS:**

None.

**ALTERNATIVES:**

Currently, there are no alternatives for completing the improvements without the funding from the SS4A Planning Grant funds.

**RECOMMENDATION:**

Approve the Ordinance.

**ATTACHMENTS:**

1. GRANT CERTIFICATION
2. SS4A FY22 Grant Agreement
3. SS4A-Terms-and-Conditions\_2023-03-28
4. SS4A-FY22-FHWA-Exhibits\_2023-02-08

## GRANT CERTIFICATION

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

Re: Safe Streets 4 All – SS4A Planning Grant

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

Name (print) Kelly Grisham

06/13/2023

Date

Title: PW Project Coordinator

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                        |  |                |              |                  |              |                      |     |              |     |        |              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|--|----------------|--------------|------------------|--------------|----------------------|-----|--------------|-----|--------|--------------|
| <p><b>1. Award No.</b><br/>693JJ32340380</p> <p><b>4. Award To</b><br/>City of Pueblo<br/>1 City Hall Place<br/>Pueblo, CO 81003</p> <p>Unique Entity Id.: NJK3BNUDRHJ7<br/>EIN No.: 84-6000615</p> <p><b>6. Period of Performance</b><br/>Effective Date of Award –<br/>25 months</p> <p><b>8. Type of Agreement</b><br/>Action Plan Grant</p> <p><b>10. Procurement Request No.</b><br/>HSSP230479PR</p> <p><b>12. Submit Payment Requests To</b><br/>See article 20.</p> <p><b>14. Accounting and Appropriations Data</b><br/>15X0173E50.0000.055SR10500.5592000000.41010.610066</p> <p><b>15. Description of Project</b><br/>The City will hire a consultant or consultants to create an evidence-based Action Plan that will facilitate life-saving redesigns that significantly reduce or eliminate roadway fatalities and serious injuries. The Comprehensive safety plan will be developed through interaction between multiple community stakeholder groups to identify projects and programs that will help contribute to improving the safety of pedestrians, bicyclists and vehicles.</p> | <p><b>2. Effective Date</b><br/>See No. 17 Below</p> <p><b>3. Assistance Listings No.</b><br/>20.939</p> <p><b>5. Sponsoring Office</b><br/>U.S. Department of Transportation<br/>Federal Highway Administration<br/>Office of Safety<br/>1200 New Jersey Avenue, SE<br/>HSSA-1, Mail Drop E71-117<br/>Washington, DC 20590</p> <table border="0"> <tr> <td><b>7. Total Amount</b></td> <td></td> </tr> <tr> <td>Federal Share:</td> <td>\$681,600.00</td> </tr> <tr> <td>Recipient Share:</td> <td>\$170,400.00</td> </tr> <tr> <td>Other Federal Funds:</td> <td>\$0</td> </tr> <tr> <td>Other Funds:</td> <td>\$0</td> </tr> <tr> <td>Total:</td> <td>\$852,000.00</td> </tr> </table> <p><b>9. Authority</b><br/>Section 24112 of the Infrastructure Investment and Jobs Act (Pub. L. 117–58, November 15, 2021; also referred to as the “Bipartisan Infrastructure Law” or “BIL”)</p> <p><b>11. Federal Funds Obligated</b><br/>\$681,600.00</p> <p><b>13. Payment Office</b><br/>See article 20.</p> | <b>7. Total Amount</b> |  | Federal Share: | \$681,600.00 | Recipient Share: | \$170,400.00 | Other Federal Funds: | \$0 | Other Funds: | \$0 | Total: | \$852,000.00 |
| <b>7. Total Amount</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                        |  |                |              |                  |              |                      |     |              |     |        |              |
| Federal Share:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | \$681,600.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                        |  |                |              |                  |              |                      |     |              |     |        |              |
| Recipient Share:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | \$170,400.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                        |  |                |              |                  |              |                      |     |              |     |        |              |
| Other Federal Funds:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$0                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                        |  |                |              |                  |              |                      |     |              |     |        |              |
| Other Funds:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | \$0                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                        |  |                |              |                  |              |                      |     |              |     |        |              |
| Total:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | \$852,000.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                        |  |                |              |                  |              |                      |     |              |     |        |              |
- 16. Signature of Person Authorized to Sign**
- 17. Signature of Agreement Officer**

\_\_\_\_\_  
Signature  
Name: Nicholas A. Gradisar  
Title: Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature  
Name: Carolyn Lethert  
Title: Agreement Officer

\_\_\_\_\_  
Date

## U.S. DEPARTMENT OF TRANSPORTATION

### GRANT AGREEMENT UNDER THE FISCAL YEAR 2022 SAFE STREETS AND ROADS FOR ALL GRANT PROGRAM

This agreement is between the Federal Highway Administration (the “FHWA”) and the City of Pueblo (the “**Recipient**”).

This agreement reflects the selection of the Recipient to receive a Safe Streets and Roads for All (“SS4A”) Grant for the SS4A Planning Grant.

The parties therefore agree to the following:

#### ARTICLE 1 GENERAL TERMS AND CONDITIONS

##### 1.1 General Terms and Conditions.

- (a) In this agreement, “**General Terms and Conditions**” means the content of the document titled “General Terms and Conditions Under the Fiscal Year 2022 Safe Streets and Roads for All Grant Program,” dated February 8, 2023, which is available at <https://www.transportation.gov/grants/ss4a/grant-agreements>. Articles 7–30 are in the General Terms and Conditions. The General Terms and Conditions are part of this agreement.
- (b) The Recipient states that it has knowledge of the General Terms and Conditions. Recipient also states that it is required to comply with all applicable Federal laws and regulations including, but not limited to, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200); National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.); and Build America, Buy America Act (BIL, div. G §§ 70901-27).
- (c) The Recipient acknowledges that the General Terms and Conditions impose obligations on the Recipient and that the Recipient’s non-compliance with the General Terms and Conditions may result in remedial action, termination of the SS4A Grant, disallowing costs incurred for the Project, requiring the Recipient to refund to the FHWA the SS4A Grant, and reporting the non-compliance in the Federal-government-wide integrity and performance system.



## **ARTICLE 2 APPLICATION, PROJECT, AND AWARD**

### **2.1 Application.**

Application Title: SS4A Planning Grant

Application Date: August 26, 2022

### **2.2 Award Amount.**

SS4A Grant Amount: \$681,600

### **2.3 Award Dates.**

Period of Performance End Date: See Section 6 on Page 1

### **2.4 Budget Period**

Budget Period End Date: See Section 6 on Page 1

### **2.5 Action Plan Grant or Implementation Grant Designation.**

Designation: Action Plan

**2.6 Federal Award Identification Number.** The Federal Award Identification Number is listed on page 1, line 1.

## **ARTICLE 3 SUMMARY PROJECT INFORMATION**

### **3.1 Summary of Project's Statement of Work.**

The goal of the Action Plan is to establish an evidence-based comprehensive plan that will identify roadway safety infrastructure projects and programs enabling the City to compete for surface road, bridge, and other infrastructure grants. The Action Plan will be used in concert with a study of local public transportation serving areas of persistent poverty, recently funded by FTA 20.505.

### 3.2 Project's Estimated Schedule.

#### ACTION PLAN SCHEDULE

| Milestone                                  | Schedule Date     |
|--------------------------------------------|-------------------|
| Planned Draft Action Plan Completion Date: | December 31, 2024 |
| Planned Action Plan Completion Date:       | March 31, 2025    |
| Planned Action Plan Adoption Date:         | June 27, 2025     |
| Planned SS4A Final Report Date:            | June 30, 2025     |

### 3.3 Project's Estimated Costs.

#### (a) Eligible Project Costs

| Eligible Project Costs       |           |
|------------------------------|-----------|
| SS4A Grant Amount:           | \$681,600 |
| Other Federal Funds:         | \$0       |
| State Funds:                 | \$0       |
| Local Funds:                 | \$170,400 |
| In-Kind Match:               | \$0       |
| Other Funds:                 | \$0       |
| Total Eligible Project Cost: | \$852,000 |

#### (b) Supplemental Estimated Budget

| Cost Element           | Federal Share | Non-Federal Share | Total Budget Amount |
|------------------------|---------------|-------------------|---------------------|
| Direct Labor           | \$0.00        | \$0.00            | \$0.00              |
| Fringe Benefits        | \$0.00        | \$0.00            | \$0.00              |
| Travel                 | \$0.00        | \$0.00            | \$0.00              |
| Equipment              | \$0.00        | \$0.00            | \$0.00              |
| Supplies               | \$0.00        | \$0.00            | \$0.00              |
| Contractual/Consultant | \$681,600     | \$170,400         | \$852,000           |
| Other                  | \$0.00        | \$0.00            | \$0.00              |
| Indirect Costs         | \$0.00        | \$0.00            | \$0.00              |
| Total Budget           | \$0.00        | \$0.00            | \$852,000           |

## ARTICLE 4

### RECIPIENT INFORMATION

#### 4.1 Recipient's Unique Entity Identifier.

NJK3BNUDRHJ7

#### 4.2 Recipient Contact(s).

Andrew Hayes  
Public Works Department Director  
City of Pueblo  
211 East D Street Pueblo, CO 81003  
719-553-2295  
[ahayes@pueblo.us](mailto:ahayes@pueblo.us)

Kelly Grisham  
Public Works Project Coordinator  
City of Pueblo  
211 East D Street Pueblo, CO 81003  
719-553-2254  
[kgrisham@pueblo.us](mailto:kgrisham@pueblo.us)

#### 4.3 Recipient Key Personnel.

| Name          | Title or Position                           |
|---------------|---------------------------------------------|
| Andrew Hayes  | Public Works Department Director            |
| Charles Roy   | Public Works Department Deputy Director     |
| Kelly Grisham | Public Works Department Project Coordinator |
| Eva Cosyleon  | MPO Manager                                 |

#### 4.4 USDOT Project Contact(s).

Stephen Parker  
Safe Streets and Roads for All Program Manager  
Federal Highway Administration  
Office of Safety  
(202) 366-4668  
[stephen.parker@dot.gov](mailto:stephen.parker@dot.gov)

and

Ashley Cucchiarelli  
Agreement Officer (AO)  
Federal Highway Administration  
Office of Acquisition and Grants Management  
12300 West Dakota Avenue Suite 390  
Lakewood, CO 80228  
(720)963-3589  
[Ashley.cucchiarelli@dot.gov](mailto:Ashley.cucchiarelli@dot.gov)

and

TBD  
Agreement Specialist (AS)

and

Division Administrator  
Agreement Officer's Representative (AOR)  
Colorado Division  
12300 W. Dakota Avenue, Suite 180  
Lakewood, CO 80228  
[Colorado.fhwa@dot.gov](mailto:Colorado.fhwa@dot.gov)

and

Ajin Hu  
Colorado Division Office Point of Contact  
Grants Program Manager  
12300 W. Dakota Avenue, Suite 180  
Lakewood, CO 80228  
720-963-3071  
[ajin.hu@dot.gov](mailto:ajin.hu@dot.gov)

William Haas  
Program Development Team Leader  
FHWA Colorado Division  
12300 W. Dakota Avenue, Suite 180  
Lakewood, CO 80228  
720-963-3016  
[william.haas@dot.gov](mailto:william.haas@dot.gov)

## **ARTICLE 5**

### **USDOT ADMINISTRATIVE INFORMATION**

#### **5.1 Office for Subaward and Contract Authorization.**

USDOT Office for Subaward and Contract Authorization: FHWA Office of Acquisition and Grants Management

#### **SUBAWARDS AND CONTRACTS APPROVAL**

Note: See 2 CFR § 200.331, Subrecipient and contractor determinations, for definitions of subrecipient (who is awarded a subaward) versus contractor (who is awarded a contract).

Note: Recipients with a procurement system deemed approved and accepted by the Government or by the AO are exempt from the requirements of this clause. See 2 CFR 200.317 through 200.327.

Note: This clause is only applicable to Action Plan Grants.

Unless described in the application and funded in the approved award, the Recipient must obtain prior written approval from the AO for the subaward, transfer, or contracting out of any work under this award above the Simplified Acquisition Threshold. This provision does not apply to the acquisition of supplies, material, equipment, or general support services. Approval of each subaward or contract is contingent upon the Recipient's submittal of a written fair and reasonable price determination, and approval by the AO for each proposed contractor/subrecipient. Consent to enter into subawards or contracts will be issued through written notification from the AO or a formal amendment to the Agreement.

The following subawards and contracts are currently approved under the Agreement by the AO. This list does not include supplies, material, equipment, or general support services which are exempt from the pre-approval requirements of this clause.

(Fill in at award or by amendment)

#### **5.2 Reimbursement Requests**

- (a) The Recipient may request reimbursement of costs incurred in the performance of this agreement if those costs do not exceed the funds available under section 2.2 and are allowable under the applicable cost provisions of 2 C.F.R. Part 200, Subpart E. The Recipient shall not request reimbursement more frequently than monthly.
- (b) The Recipient shall use the DELPHI eInvoicing System to submit requests for reimbursement to the payment office. When requesting reimbursement of costs incurred or credit for cost share incurred, the Recipient shall electronically submit supporting cost detail with the SF 271 (Outlay Report and Request for Reimbursement for Construction Programs) to clearly document all costs incurred.

- (c) The Recipient's supporting cost detail shall include a detailed breakout of all costs incurred, including direct labor, indirect costs, other direct costs, travel, etc., and the Recipient shall identify the Federal share and the Recipient's share of costs. If the Recipient does not provide sufficient detail in a request for reimbursement, the AO may withhold processing that request until the Recipient provides sufficient detail.
- (d) The USDOT shall not reimburse costs unless the Agreement Officer's Representative (the "AOR") reviews and approves the costs to ensure that progress on this agreement is sufficient to substantiate payment.
- (e) The USDOT may waive the requirement that the Recipient use the DELPHI eInvoicing System. The Recipient may obtain waiver request forms on the DELPHI eInvoicing website (<http://www.dot.gov/cfo/delphi-einvoicing-system.html>) or by contacting the AO. A Recipient who seeks a waiver shall explain why they are unable to use or access the Internet to register and enter payment requests and send a waiver request to

Director of the Office of Financial Management  
US Department of Transportation,  
Office of Financial Management B-30, Room W93-431  
1200 New Jersey Avenue SE  
Washington DC 20590-0001

or

[DOTElectronicInvoicing@dot.gov](mailto:DOTElectronicInvoicing@dot.gov).

If the USDOT grants the Recipient a waiver, the Recipient shall submit SF 271s directly to:

DOT/FAA  
P.O. Box 268865  
Oklahoma City, OK 73125-8865  
Attn: Agreement Specialist

- (f) The requirements set forth in these terms and conditions supersede previous financial invoicing requirements for Recipients.

## **ARTICLE 6 SPECIAL GRANT TERMS**

- 6.1** SS4A funds must be expended within five years after the grant agreement is executed and DOT obligates the funds, which is the budget period end date in section 10.3 of the Terms and Conditions and Section 2.4 in Article 2.

- 6.2** The Recipient acknowledges that the Action Plan will be made publicly available, and the Recipient agrees that it will publish the final Action Plan on a publicly available website.
- 6.3** The Recipient demonstrates compliance with civil rights obligations and nondiscrimination laws, including Titles VI of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act, and accompanying regulations. Recipients of Federal transportation funding will also be required to comply fully with regulations and guidance for the ADA, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and all other civil rights requirements.
- 6.4** There are no other special grant requirements for this award.

**ATTACHMENT A**  
**PERFORMANCE MEASUREMENT INFORMATION**

**Study Area:** Pueblo County

**Baseline Measurement Date:** April 30, 2025

**Baseline Report Date:** June 30, 2025

**Table 1: Performance Measure Table**

| <b>Measure</b>                      | <b>Category and Description</b>                                                                                                                                                                 | <b>Measurement Frequency</b> |
|-------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| Equity                              | Percent of Funds to Underserved Communities: Funding amount (of total project amount) benefitting underserved communities, as defined by USDOT                                                  | End of period of performance |
| Costs                               | Project Costs: Quantification of the cost of each eligible project carried out using the grant                                                                                                  | End of period of performance |
| Lessons Learned and Recommendations | Lessons Learned and Recommendations: Description of lessons learned and any recommendations relating to future projects of strategies to prevent death and serious injury on roads and streets. | End of period of performance |



## ATTACHMENT B CHANGES FROM APPLICATION

**INSTRUCTIONS FOR COMPLETING ATTACHMENT B:** Describe all material differences between the scope, schedule, and budget described in the application and the scope, schedule, and budget described in Article 3. The purpose of this attachment B is to document the differences clearly and accurately in scope, schedule, and budget to establish the parties' knowledge and acceptance of those differences. See section 10.1.

**Scope:** Not Applicable

**Schedule:** Not Applicable

**Budget:** Not Applicable

The table below provides a summary comparison of the project budget.

| Fund Source                                                       | Application |   | Section 3.3 |   |
|-------------------------------------------------------------------|-------------|---|-------------|---|
|                                                                   | \$          | % | \$          | % |
| <b>Previously Incurred Costs<br/>(Non-Eligible Project Costs)</b> |             |   |             |   |
| Federal Funds                                                     |             |   |             |   |
| Non-Federal Funds                                                 |             |   |             |   |
| Total Previously Incurred Costs                                   |             |   |             |   |
| <b>Future Eligible Project Costs</b>                              |             |   |             |   |
| SS4AFunds                                                         |             |   |             |   |
| Other Federal Funds                                               |             |   |             |   |
| Non-Federal Funds                                                 |             |   |             |   |
| Total Future Eligible Project Costs                               |             |   |             |   |
| Total Project Costs                                               |             |   |             |   |

## ATTACHMENT C RACIAL EQUITY AND BARRIERS TO OPPORTUNITY

### 1. Efforts to Improve Racial Equity and Reduce Barriers to Opportunity.

The Recipient states that rows marked with “X” in the following table are accurate:

|   |                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   | A racial equity impact analysis has been completed for the Project. <i>(Identify a report on that analysis or, if no report was produced, describe the analysis and its results in the supporting narrative below.)</i>                                                                                                                                                                                                                     |
|   | The Recipient or a project partner has adopted an equity and inclusion program/plan or has otherwise instituted equity-focused policies related to project procurement, material sourcing, construction, inspection, hiring, or other activities designed to ensure racial equity in the overall delivery and implementation of the Project. <i>(Identify the relevant programs, plans, or policies in the supporting narrative below.)</i> |
|   | The Project includes physical-barrier-mitigating land bridges, caps, lids, linear parks, and multimodal mobility investments that either redress past barriers to opportunity or that proactively create new connections and opportunities for underserved communities that are underserved by transportation. <i>(Identify the relevant investments in the supporting narrative below.)</i>                                                |
|   | The Project includes new or improved walking, biking, and rolling access for individuals with disabilities, especially access that reverses the disproportional impacts of crashes on people of color and mitigates neighborhood bifurcation. <i>(Identify the new or improved access in the supporting narrative below.)</i>                                                                                                               |
|   | The Project includes new or improved freight access to underserved communities to increase access to goods and job opportunities for those underserved communities. <i>(Identify the new or improved access in the supporting narrative below.)</i>                                                                                                                                                                                         |
| X | The Recipient has taken other actions related to the Project to improve racial equity and reduce barriers to opportunity, as described in the supporting narrative below.                                                                                                                                                                                                                                                                   |
|   | The Recipient has not yet taken actions related to the Project to improve racial equity and reduce barriers to opportunity but, before beginning construction of the project, will take relevant actions described in the supporting narrative below                                                                                                                                                                                        |
|   | The Recipient has not taken actions related to the Project to improve racial equity and reduce barriers to opportunity and will not take those actions under this award.                                                                                                                                                                                                                                                                    |

### 2. Supporting Narrative.

The City of Pueblo Public Works Department has adopted a Title VI compliance plan, which assures equal public access to public works services and the benefits of capital improvement projects across the City. The Title VI plan is available online: [City of Pueblo Public Works Department Title VI Compliance Plan](#)

## ATTACHMENT D CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE IMPACTS

### 1. Consideration of Climate Change and Environmental Justice Impacts.

The Recipient states that rows marked with “X” in the following table are accurate:

|  |                                                                                                                                                                                                                                                                                                                             |
|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | The Project directly supports a Local/Regional/State Climate Action Plan that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>                                                                                                                                      |
|  | The Project directly supports a Local/Regional/State Equitable Development Plan that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>                                                                                                                               |
|  | The Project directly supports a Local/Regional/State Energy Baseline Study that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>                                                                                                                                    |
|  | The Recipient or a project partner used environmental justice tools, such as the EJSCREEN, to minimize adverse impacts of the Project on environmental justice communities. <i>(Identify the tool(s) in the supporting narrative below.)</i>                                                                                |
|  | The Project supports a modal shift in freight or passenger movement to reduce emissions or reduce induced travel demand. <i>(Describe that shift in the supporting narrative below.)</i>                                                                                                                                    |
|  | The Project utilizes demand management strategies to reduce congestion, induced travel demand, and greenhouse gas emissions. <i>(Describe those strategies in the supporting narrative below.)</i>                                                                                                                          |
|  | The Project incorporates electrification infrastructure, zero-emission vehicle infrastructure, or both. <i>(Describe the incorporated infrastructure in the supporting narrative below.)</i>                                                                                                                                |
|  | The Project supports the installation of electric vehicle charging stations. <i>(Describe that support in the supporting narrative below.)</i>                                                                                                                                                                              |
|  | The Project promotes energy efficiency. <i>(Describe how in the supporting narrative below.)</i>                                                                                                                                                                                                                            |
|  | The Project serves the renewable energy supply chain. <i>(Describe how in the supporting narrative below.)</i>                                                                                                                                                                                                              |
|  | The Project improves disaster preparedness and resiliency <i>(Describe how in the supporting narrative below.)</i>                                                                                                                                                                                                          |
|  | The Project avoids adverse environmental impacts to air or water quality, wetlands, and endangered species, such as through reduction in Clean Air Act criteria pollutants and greenhouse gases, improved stormwater management, or improved habitat connectivity. <i>(Describe how in the supporting narrative below.)</i> |
|  | The Project repairs existing dilapidated or idle infrastructure that is currently causing environmental harm. <i>(Describe that infrastructure in the supporting narrative below.)</i>                                                                                                                                      |
|  | The Project supports or incorporates the construction of energy- and location-efficient buildings. <i>(Describe how in the supporting narrative below.)</i>                                                                                                                                                                 |

|   |                                                                                                                                                                                                                                                |
|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   | The Project includes recycling of materials, use of materials known to reduce or reverse carbon emissions, or both. <i>(Describe the materials in the supporting narrative below.)</i>                                                         |
|   | The Recipient has taken other actions to consider climate change and environmental justice impacts of the Project, as described in the supporting narrative below.                                                                             |
| X | The Recipient has not yet taken actions to consider climate change and environmental justice impacts of the Project but, before beginning construction of the Project, will take relevant actions described in the supporting narrative below. |
|   | The Recipient has not taken actions to consider climate change and environmental justice impacts of the Project and will not take those actions under this award.                                                                              |

## 2. **Supporting Narrative.**

This project includes development of a comprehensive safety plan which will identify a slate of projects and programs to improve pedestrian, bicycle and vehicular safety. The projects that are generated from this plan that are identified for funding, will be evaluated for their environmental justice impacts.

## ATTACHMENT E LABOR AND WORKFORCE

### 1. Efforts to Support Good-Paying Jobs and Strong Labor Standards

The Recipient states that rows marked with “X” in the following table are accurate:

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | The Recipient demonstrate, to the full extent possible consistent with the law, an effort to create good-paying jobs with the free and fair choice to join a union and incorporation of high labor standards. <i>(Identify the relevant agreements and describe the scope of activities they cover in the supporting narrative below.)</i>                                                                                                                                                                                                                                                                                                                                                           |
|  | The Recipient or a project partner has adopted the use of local and economic hiring preferences in the overall delivery and implementation of the Project. <i>(Describe the relevant provisions in the supporting narrative below.)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|  | The Recipient or a project partner has adopted the use of registered apprenticeships in the overall delivery and implementation of the Project. <i>(Describe the use of registered apprenticeship in the supporting narrative below.)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|  | The Recipient or a project partner will provide training and placement programs for underrepresented workers in the overall delivery and implementation of the Project. <i>(Describe the training programs in the supporting narrative below.)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|  | The Recipient or a project partner will support free and fair choice to join a union in the overall delivery and implementation of the Project by investing in workforce development services offered by labor-management training partnerships or setting expectations for contractors to develop labor-management training programs. <i>(Describe the workforce development services offered by labor-management training partnerships in the supporting narrative below.)</i>                                                                                                                                                                                                                     |
|  | The Recipient or a project partner will provide supportive services and cash assistance to address systemic barriers to employment to be able to participate and thrive in training and employment, including childcare, emergency cash assistance for items such as tools, work clothing, application fees and other costs of apprenticeship or required pre-employment training, transportation and travel to training and work sites, and services aimed at helping to retain underrepresented groups like mentoring, support groups, and peer networking. <i>(Describe the supportive services and/or cash assistance provided to trainees and employees in the supporting narrative below.)</i> |
|  | The Recipient or a project partner has documented agreements or ordinances in place to hire from certain workforce programs that serve underrepresented groups. <i>(Identify the relevant agreements and describe the scope of activities they cover in the supporting narrative below.)</i>                                                                                                                                                                                                                                                                                                                                                                                                         |

|   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   | <p>The Recipient or a project partner participates in a State/Regional/Local comprehensive plan to promote equal opportunity, including removing barriers to hire and preventing harassment on work sites, and that plan demonstrates action to create an inclusive environment with a commitment to equal opportunity, including:</p> <ul style="list-style-type: none"> <li>a. affirmative efforts to remove barriers to equal employment opportunity above and beyond complying with Federal law;</li> <li>b. proactive partnerships with the U.S. Department of Labor's Office of Federal Contract Compliance Programs to promote compliance with EO 11246 Equal Employment Opportunity requirements and meet the requirements as outlined in the Notice of Funding Opportunity to make good faith efforts to meet the goals of 6.9 percent of construction project hours being performed by women and goals that vary based on geography for construction work hours and for work being performed by people of color;</li> <li>c. no discriminatory use of criminal background screens and affirmative steps to recruit and include those with former justice involvement, in accordance with the Fair Chance Act and equal opportunity requirements.</li> <li>d. efforts to prevent harassment based on race, color, religion, sex, sexual orientation, gender identity, and national origin;</li> <li>e. training on anti-harassment and third-party reporting procedures covering employees and contractors; and</li> <li>f. maintaining robust anti-retaliation measures covering employees and contractors.</li> </ul> <p><i>(Describe the equal opportunity plan in the supporting narrative below.)</i></p> |
|   | <p>The Recipient has taken other actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards. <i>(Describe those actions in the supporting narrative below.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| x | <p>The Recipient has not yet taken actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards but, before beginning construction of the project, will take relevant actions described in the supporting narrative below.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|   | <p>The Recipient has not taken actions related to the Project to improving good-paying jobs and strong labor standards and will not take those actions under this award.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

## 2. Supporting Narrative.

This project includes development of a comprehensive safety plan which will identify a slate of projects and programs to improve pedestrian, bicycle and vehicular safety. The projects that are generated from this plan that are identified for funding, will be evaluated for their ability to create good paying jobs, with the free and fair choice to join a union and incorporate strong labor standards.

**ATTACHMENT F**  
**CRITICAL INFRASTRUCTURE SECURITY AND RESILIENCE**

**1. Efforts to strengthen the Security and Resilience of Critical Infrastructure against both Physical and Cyber Threats.**

The Recipient states that rows marked with “X” in the following table are accurate:

|   |                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|---|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   | The Recipient demonstrates, prior to the signing of this agreement, effort to consider and address physical and cyber security risks relevant to the transportation mode and type and scale of the activities.                                                                                                                                                                                                                                         |
|   | The Recipient appropriately considered and addressed physical and cyber security and resilience in the planning, design and oversight of the project, as determined by the Department and the Department of Homeland Security.                                                                                                                                                                                                                         |
| X | The Recipient complies with 2 CFR 200.216 and the prohibition on certain telecommunications and video surveillance services or equipment.                                                                                                                                                                                                                                                                                                              |
|   | For projects in floodplains: The Recipient appropriately considered whether the project was upgraded consistent with the Federal Flood Risk Management Standard, to the extent consistent with current law, in Executive Order 14030, Climate-Related Financial Risk (86 FR 27967), and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Solicit and Considering Stakeholder Input (80 FR 6425). |

**2. Supporting Narrative.**

The City of Pueblo has an internal polity that is Trade Agreements Act (TAA) compliant, meaning that procured equipment cannot be made in certain countries, including but not limited to, China and India.

**U.S. DEPARTMENT OF TRANSPORTATION**

**GENERAL TERMS AND CONDITIONS UNDER THE**  
**FISCAL YEAR 2022 SAFE STREETS AND ROADS FOR ALL (“SS4A”) GRANT**  
**PROGRAM:**  
**FHWA PROJECTS**

Revision date: March 28, 2023



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## GENERAL TERMS AND CONDITIONS

The Infrastructure Investment and Jobs Act (Pub. L. 117–58, November 15, 2021; also referred to as the “Bipartisan Infrastructure Law” or “BIL”) established the Safe Streets and Roads for All (SS4A) Discretionary Grant Program (BIL Section 24112) and appropriated funds to the United States Department of Transportation (the “USDOT”) under Division J, Title VIII of BIL to implement the program. The funds are available to provide Federal financial assistance to support local initiatives to prevent death and serious injury on roads and streets, commonly referred to as “Vision Zero” or “Toward Zero Deaths” initiatives.

The USDOT published a Notice of Funding Opportunity (the “NOFO”) to solicit applications for Federal financial assistance in Fiscal Year 2022 for the SS4A Discretionary Grant Program (87 Fed. Reg. 31606 (May 24, 2022; subsequently amended in 87 Fed. Reg. 47818 on August 4, 2022)).

These general terms and conditions are incorporated by reference in a project-specific grant agreement under the fiscal year 2022 SS4A grant program. Articles 1–6 are in the project-specific portion of the agreement. The term “Recipient” is defined in the project-specific portion of the agreement. Attachments A through D are project-specific attachments.

### ARTICLE 7 PURPOSE

**7.1 Purpose.** The purpose of this award is to improve roadway safety by significantly reducing or eliminating roadway fatalities and serious injuries through safety action plan development or projects focused on all users, including pedestrians, bicyclists, public transportation users, motorists, personal conveyance and micromobility users, and commercial vehicle operators. The parties will accomplish that purpose by achieving the following objectives:

- (1) timely completing the Project; and
- (2) ensuring that this award does not substitute for non-Federal investment in the Project, except as proposed in the Grant Application, as modified by section 3.3 and Attachment B.

### ARTICLE 8 USDOT ROLE

#### **8.1 Division of USDOT Responsibilities.**

- (a) The Office of the Secretary of Transportation is ultimately responsible for the USDOT’s administration of the SS4A Grant Program.

- (b) The Federal Highway Administration (the “FHWA”) will administer this grant agreement on behalf of the USDOT. In this agreement, the “**Administering Operating Administration**” means the FHWA.

## **8.2 USDOT Program Contacts.**

FHWA Safe Streets and Roads for All  
Federal Highway Administration  
Office of Safety  
1200 New Jersey Avenue SE  
HSA-1, Mail Drop E71-117  
Washington, DC 20590  
SS4A.FHWA@dot.gov  
(202) 366-2201

and

[enter FHWA Division Office lead point of contact]  
[enter address]  
[enter email address]  
[enter telephone]

## **ARTICLE 9 RECIPIENT ROLE**

### **9.1 Statements on the Project.** The Recipient states that:

- (1) all material statements of fact in the Grant Application were accurate when that application was submitted; and
- (2) Attachment B documents all material changes in the information contained in that application.

### **9.2 Statements on Authority and Capacity.** The Recipient states that:

- (1) it has the authority to receive Federal financial assistance under this agreement;
- (2) It has the legal authority to complete the Project, including either ownership and/or maintenance responsibilities over a roadway network; safety responsibilities that affect roadways; or has an agreement from the agency that has ownership and/or maintenance responsibilities for the roadway within the applicant’s jurisdiction; if applicable.
- (3) it has the capacity, including institutional, managerial, and financial capacity, to comply with its obligations under this agreement;

- (4) not less than the difference between the “Total Eligible Project Cost” and the “SS4A Grant Amount” listed in section 3.3 are committed to fund the Project;
- (5) it has sufficient funds available, or an agreement with the agency that has ownership and/or maintenance responsibilities for the roadway within the recipient’s jurisdiction, to ensure that infrastructure completed or improved under this agreement will be operated and maintained in compliance with this agreement and applicable Federal law; and
- (6) the individual executing this agreement on behalf of the Recipient has authority to enter this agreement and make the statements in this article 9 and in section 24.7 on behalf of the Recipient.

**9.3 USDOT Reliance.** The Recipient acknowledges that:

- (1) the USDOT relied on statements of fact in the Grant Application to select the Project to receive this award;
- (2) the USDOT relied on statements of fact in both the Grant Application and this agreement to determine that the Recipient and the Project are eligible under the terms of the NOFO;
- (3) the USDOT relied on statements of fact in both the Grant Application and this agreement to establish the terms of this agreement; and
- (4) the USDOT’s selection of the Project to receive this award prevented awards under the NOFO to other eligible applicants.

**9.4 Project Delivery.**

- (a) The Recipient shall complete the Project under the terms of this agreement.
- (b) The Recipient shall ensure that the Project is financed, constructed, operated, and maintained in accordance with all applicable Federal laws, regulations, and policies.
- (c) The Recipient shall provide any certifications or assurances deemed necessary by the USDOT in ensuring the Recipient’s compliance with all applicable laws, regulations, and policies.
- (d) The Recipient shall provide access to records as provided at 2 CFR 200.337.

**9.5 Rights and Powers Affecting the Project.**

- (a) The Recipient shall not take or permit any action that deprives it of any rights or powers necessary to the Recipient’s performance under this agreement without written approval of the USDOT.

- (b) The Recipient shall act, in a manner acceptable to the USDOT, promptly to acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with the Recipient's performance under this agreement.

**9.6 Notification of Changes to Key Personnel.** The Recipient shall notify all USDOT representatives who are identified in Section 4.4 in writing within 30 calendar days of any change in key personnel who are identified in Section 4.3.

## **ARTICLE 10**

### **AWARD AMOUNT, OBLIGATION, AND TIME PERIODS**

**10.1 Federal Award Amount** The USDOT hereby awards a SS4A Grant to the Recipient in the amount listed in Section 2.2 as the SS4A Grant Amount.

**10.2 Federal Obligations.**

This agreement obligates for the period of performance listed in section 2.3 of the grant agreement.

**10.3 Budget Period**

The budget period for this award begins on the date of this agreement and ends on the budget period end date that is listed in section 2.4, which shall be no later than 5 years from the date of grant execution. In this agreement, "budget period" is used as defined at 2 C.F.R. 200.1.

**10.4 Period of Performance.**

- (a) The period of performance for this award begins on the effective date of award listed in page 1 item 2 and ends on the period of performance end date that is listed in Section 2.3.
- (b) In this agreement, "period of performance" is used as defined at 2 C.F.R. 200.1.

## **ARTICLE 11**

### **STATEMENT OF WORK, SCHEDULE, AND BUDGET CHANGES**

**11.1 Notification Requirement.** The Recipient shall notify all USDOT representatives who are identified in section 4.4 in writing within 30 calendar days of any change in circumstances or commitments that adversely affect the Recipient's plan to complete the Project. In that notification, the Recipient shall describe the change and what actions the Recipient has taken or plans to take to ensure completion of the Project. This notification requirement under this section 11.1 is separate from any requirements under this article 11 that the Recipient request amendment of this agreement.



**11.2 Statement of Work Changes.** If the Project’s activities differ from the statement of work that is described in section 3.1 and Attachment B, then the Recipient shall request an amendment of this agreement to update section 3.1.

**11.3 Schedule Changes.** If one or more of the following conditions are satisfied, then the Recipient shall request an amendment of this agreement to update the relevant dates:

- (1) a substantial completion date for the Project or a component of the Project is listed in section 3.2 and the Recipient’s estimate for that milestone changes to a date that is more than six months after the date listed in section 3.2; or
- (2) a schedule change would require the period of performance to continue after the period of performance end date listed in section 2.3.

For other schedule changes, the Recipient shall request an amendment of this agreement unless the USDOT has consented, in writing consistent with applicable requirements, to the change.

**11.4 Budget Changes.**

- (a) The Recipient acknowledges that if the cost of completing the Project increases:
  - (1) that increase does not affect the Recipient’s obligation under this agreement to complete the Project; and
  - (2) the USDOT will not increase the amount of this award to address any funding shortfall.
- (b) The Recipient shall request an amendment of this agreement to update section 3.3 and Attachment B if, in comparing the Project’s budget to the amounts listed in section 3.3:
  - (1) the “Non-Federal Funds” amount decreases; or
  - (2) the “Total Eligible Project Cost” amount decreases.
- (c) For budget changes that are not identified in section 11.4(b), the Recipient shall request an amendment of this agreement to update section 3.3 and Attachment B unless the USDOT has consented, in writing consistent with applicable requirements, to the change.
- (d) If the actual eligible project costs are less than the “Total Eligible Project Cost” that is listed in section 3.3, then the Recipient may propose to the USDOT, in writing consistent with applicable requirements, specific additional activities that are within the scope of this award, as defined in sections 7.1 and 3.1, and that the Recipient could complete with the difference between the “Total Eligible Project Cost” that is listed in section 3.3 and the actual eligible project costs.
- (e) If the actual eligible project costs are less than the “Total Eligible Project Cost” that is listed in section 3.3 and either the Recipient does not make a proposal under section

11.4(d) or the USDOT does not accept the Recipient's proposal under section 11.4(d), then:

- (1) in a request under section 11.4(b), the Recipient shall reduce the Federal Share by the difference between the "Total Eligible Project Cost" that is listed in section 3.3 and the actual eligible project costs; and
- (2) if that amendment reduces this award and the USDOT had reimbursed costs exceeding the revised award, the Recipient shall request to add additional project work that is within the scope of this project.

In this agreement, "**Federal Share**" means the sum of the "SS4A Action Plan or Implementation Grant Amount" and the "Other Federal Funds" amounts that are listed in section 3.3.

- (f) The Recipient acknowledges that amounts that are required to be refunded under section 11.4(e)(2) constitute a debt to the Federal Government that the USDOT may collect under 2 C.F.R. 200.346 and the Federal Claims Collection Standards (31 C.F.R. parts 900–999).

**11.5 USDOT Acceptance of Changes.** The USDOT may accept or reject amendments requested under this article 11, and in doing so may elect to consider only the interests of the SS4A grant program and the USDOT. The Recipient acknowledges that requesting an amendment under this article 11 does not amend, modify, or supplement this agreement unless the USDOT accepts that amendment request and the parties modify this agreement under section 21.1.

## **ARTICLE 12 GENERAL REPORTING TERMS**

**12.1 Report Submission.** The Recipient shall send all reports required by this agreement to all USDOT contacts who are listed in section 4.4. Reports will be added to a central repository maintained by FHWA.

**12.2 Alternative Reporting Methods.** FHWA may establish processes for the Recipient to submit reports required by this agreement, including electronic submission processes. If the Recipient is notified of those processes in writing, the Recipient shall use the processes required by the FHWA.

**12.3 Paperwork Reduction Act Notice.**

Under 5 C.F.R. 1320.6, the Recipient is not required to respond to a collection of information that does not display a currently valid control number issued by the Office of Management and Budget (the "**OMB**"). Collections of information conducted under this agreement are approved under OMB Control No. 2125-0675.

## **ARTICLE 13 PROGRESS AND FINANCIAL REPORTING**

- 13.1 Quarterly Program Performance Reports.** Quarterly, on or before the 20<sup>th</sup> day of the first month of each calendar year (e.g., reports due on or before January 20<sup>th</sup>, April 20<sup>th</sup>, August 20<sup>th</sup>, and December 20<sup>th</sup>) and until the end of the period of performance, the Recipient shall submit to the USDOT a Quarterly Project Progress Report in the format and with the content described in Exhibit C (SF-PPR). If the date of this agreement is in the final month of a calendar year, then the Recipient shall submit the first Quarterly Project Progress Report in the second calendar year that begins after the date of this agreement.
- 13.2 Quarterly Financial Status.** Quarterly, on or before the 20<sup>th</sup> day of the first month of each calendar year, the Recipient shall submit a Federal Financial Report using SF-425.

## **ARTICLE 14 PERFORMANCE REPORTING**

- 14.1 Baseline Performance Measurement.** If the Designation in Section 2.5 is “Implementation,” then:
- (1) the Recipient shall collect data for each performance measure that is identified in the Performance Measure Table in Attachment A, accurate as of the Baseline Measurement Date that is identified in Attachment A; and
  - (2) on or before the Baseline Report Date that is stated in Attachment A, the Recipient shall submit a Baseline Performance Measurement Report that contains the data collected under this section 14.1 and a detailed description of the data sources, assumptions, variability, and estimated levels of precision for each performance measure that is identified in the Performance Measure Table in Attachment A.
- 14.2 Section 24112(h) Report:** The Recipient shall submit to the USDOT, not later than 120 days after the end of the period of performance, a report that describes, consistent with section 24112(g) of BIL:
- (1) the costs of carrying out the project;
  - (2) the outcomes and benefits that each eligible project generated as identified in the grant application and measured by data to the maximum extent practicable (i.e. number of fatalities and serious injuries that occurred within the limits of the project location); and
  - (3) the lessons learned, and any recommendations related to future projects or strategies to prevent death and serious injuries on roads and streets.

### **14.3 Performance Measurement Information.**

For each performance measure that is identified in the Performance Measure Table in Attachment A, not later than January 31 of each year that follows a calendar year within the period of performance during which data was collected, the Recipient shall submit to the USDOT a Performance Measurement Report containing the data collected in the previous calendar year and stating the dates when the data was collected.

### **14.4 Performance Reporting Survival.**

The data collection and reporting requirements in this article 14 survive the termination of this agreement which is three years post period of performance.

### **14.5 Program Evaluation.**

As a condition of grant award, the recipient may be required to participate in an evaluation undertaken by USDOT, or another agency or partner. The evaluation may take different forms such as an implementation assessment across grant recipients, an impact and/or outcomes analysis of all or selected sites within or across grant recipients, or a benefit/cost analysis or assessment of return on investment. The Department may require applicants to collect data elements to aid the evaluation. As a part of the evaluation, as a condition of award, grant recipients must agree to: (1) make records available to the evaluation contractor; (2) provide access to program records, and any other relevant documents to calculate costs and benefits; (3) in the case of an impact analysis, facilitate the access to relevant information as requested; and (4) follow evaluation procedures as specified by the evaluation contractor or USDOT staff.

## **ARTICLE 15 NONCOMPLIANCE AND REMEDIES**

### **15.1 Noncompliance Determinations.**

- (a) If the USDOT determines that the Recipient may have failed to comply with the United States Constitution, Federal law, or the terms and conditions of this agreement, the USDOT may notify the Recipient of a proposed determination of noncompliance. For the notice to be effective, it must be written and the USDOT must include an explanation of the nature of the noncompliance, describe a remedy, state whether that remedy is proposed or effective at an already determined date, and describe the process through and form in which the Recipient may respond to the notice.
- (b) If the USDOT notifies the Recipient of a proposed determination of noncompliance under section 15.1(a), the Recipient may, not later than 7 calendar days after the notice, respond to that notice in the form and through the process described in that notice. In its response, the Recipient may:
  - (1) accept the remedy;

- (2) acknowledge the noncompliance, but propose an alternative remedy; or
- (3) dispute the noncompliance.

To dispute the noncompliance, the Recipient must include in its response documentation or other information supporting the Recipient's compliance.

- (c) The USDOT may make a final determination of noncompliance only:
  - (1) after considering the Recipient's response under section 15.1(b); or
  - (2) if the Recipient fails to respond under section 15.1(b), after the time for that response has passed.
- (d) To make a final determination of noncompliance, the USDOT must provide a notice to the Recipient that states the bases for that determination.

## **15.2 Remedies.**

- (a) If the USDOT makes a final determination of noncompliance under section 15.1(d), the USDOT may impose a remedy, including:
  - (1) additional conditions on the award;
  - (2) any remedy permitted under 2 C.F.R. 200.339–200.340, including withholding of payments; disallowance of previously reimbursed costs, requiring refunds from the Recipient to USDOT; suspension or termination of the award; or suspension and disbarment under 2 C.F.R. part 180; or
  - (3) any other remedy legally available.
- (b) To impose a remedy, the USDOT must provide a written notice to the Recipient that describes the remedy, but the USDOT may make the remedy effective before the Recipient receives that notice.
- (c) If the USDOT determines that it is in the public interest, the USDOT may impose a remedy, including all remedies described in section 15.2(a), before making a final determination of noncompliance under section 15.1(d). If it does so, then the notice provided under section 15.1(d) must also state whether the remedy imposed will continue, be rescinded, or modified.
- (d) In imposing a remedy under this section 15.2 or making a public interest determination under section 15.2(c), the USDOT may elect to consider the interests of only the USDOT.
- (e) The Recipient acknowledges that amounts that the USDOT requires the Recipient to refund to the USDOT due to a remedy under this section 15.2 constitute a debt to the

Federal Government that the USDOT may collect under 2 C.F.R. 200.346 and the Federal Claims Collection Standards (31 C.F.R. parts 900–999).

### **15.3 Other Oversight Entities.**

Nothing in this article 15 limits any party's authority to report activity under this agreement to the United States Department of Transportation Inspector General or other appropriate oversight entities.

## **ARTICLE 16 AGREEMENT TERMINATION**

### **16.1 USDOT Termination.**

- (a) The USDOT may terminate this agreement and all of its obligations under this agreement if any of the following occurs:
  - (1) the Recipient fails to obtain or provide any non-SS4A Grant contribution (all eligible project costs other than the SS4A Grant Amount, as described in section 3.2 table (a) of the grant agreement) or alternatives approved by the USDOT as provided in this agreement and consistent with article 3;
  - (2) a construction start date for the Project or Strategy is listed in section 3.2 and the Recipient fails to meet that milestone by six months after the date listed in section 3.2;
  - (3) a substantial completion date for the Project or Strategy is listed in section 3.2 and the Recipient fails to meet that milestone by six months after the date listed in section 3.2;
  - (4) the Recipient fails to comply with the terms and conditions of this agreement, including a material failure to comply with the schedule in section 3.2 even if it is beyond the reasonable control of the Recipient; or,
  - (5) the USDOT determines that termination of this agreement is in the public interest.
  - (6) the Recipient fails to expend the funds within 5 years after the date on which the government executes the grant agreement, which is the date funds are provided for the project.
- (b) In terminating this agreement under this section, the USDOT may elect to consider only the interests of the USDOT.
- (c) This section 16.1 does not limit the USDOT's ability to terminate this agreement as a remedy under section 15.2.

- (d) The Recipient may request that the USDOT terminate the agreement under this section 16.1.

## **16.2 Closeout Termination.**

- (a) This agreement terminates on Project Closeout.
- (b) In this agreement, “**Project Closeout**” means the date that the USDOT notifies the Recipient that the award is closed out. Under 2 C.F.R. 200.344, Project Closeout should occur no later than one year after the end of the period of performance.

## **16.3 Post-Termination Adjustments.** The Recipient acknowledges that under 2 C.F.R. 200.345–200.346, termination of the agreement does not extinguish the USDOT’s authority to disallow costs, including costs that USDOT reimbursed before termination, and recover funds from the Recipient.

## **16.4 Non-Terminating Events.**

- (a) The end of the period of performance described under section 10.4 does not terminate this agreement or the Recipient’s obligations under this agreement.
- (b) The liquidation of funds under section 20.1 does not terminate this agreement or the Recipient’s obligations under this agreement.

## **16.5 Other Remedies.** The termination authority under this article 16 supplements and does not limit the USDOT’s remedial authority under article 15 or 2 C.F.R. part 200, including 2 C.F.R. 200.339–200.340.

# **ARTICLE 17**

## **MONITORING, FINANCIAL MANAGEMENT, CONTROLS, AND RECORDS**

## **17.1 Recipient Monitoring and Record Retention.**

- (a) The Recipient shall monitor activities under this award, including activities under subawards and contracts, to ensure:
  - (1) that those activities comply with this agreement; and
  - (2) that funds provided under this award are not expended on costs that are not allowable under this award or not allocable to this award.
- (b) If the Recipient makes a subaward under this award, the Recipient shall monitor the activities of the subrecipient in compliance with 2 C.F.R. 200.332(d).
- (c) The Recipient shall retain records relevant to the award as required under 2 C.F.R. 200.334.

## **17.2 Financial Records and Audits.**

- (a) The Recipient shall keep all project accounts and records that fully disclose the amount and disposition by the Recipient of the award funds, the total cost of the Project, and the amount or nature of that portion of the cost of the Project supplied by other sources, and any other financial records related to the project.
- (b) The Recipient shall keep accounts and records described under section 17.2(a) in accordance with a financial management system that meets the requirements of 2 C.F.R. 200.301–200.303, 2 C.F.R. part 200, subpart F, and title 23, United States Code, and will facilitate an effective audit in accordance with 31 U.S.C. 7501–7506.
- (c) The Recipient shall separately identify expenditures under the fiscal year 2022 SS4A grants program in financial records required for audits under 31 U.S.C. 7501–7506. Specifically, the Recipient shall:
  - (1) list expenditures under that program separately on the schedule of expenditures of Federal awards required under 2 C.F.R. part 200, subpart F, including “FY 2022” in the program name; and
  - (2) list expenditures under that program on a separate row under Part II, Item 1 (“Federal Awards Expended During Fiscal Period”) of Form SF-SAC, including “FY 2022” in column c (“Additional Award Identification”).

**17.3 Internal Controls.** The Recipient shall establish and maintain internal controls as required under 2 C.F.R. 200.303.

**17.4 USDOT Record Access.** The USDOT may access Recipient records related to this award under 2 C.F.R. 200.337.

## **ARTICLE 18 CONTRACTING AND SUBAWARDS**

**18.1 Build America, Buy America.** This award term implements § 70914(a) of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtitle A, 135 Stat. 429, 1294 (2021) and Office of Management and Budget (OMB) Memorandum M-22-11, “Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure.”

*Requirement to Use Iron, Steel, Manufactured Products, and Construction Materials Produced in the United States.*

The Recipient shall not use funds provided under this award for a project for infrastructure unless:



- (1) all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- (2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product; and
- (3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

*Inapplicability.*

The domestic content procurement preference in this award term only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

*Waivers.*

When necessary, the Recipient may apply for, and the USDOT may grant, a waiver from the domestic content procurement preference in this award term.

A request to waive the application of the domestic content procurement preference must be in writing. The USDOT will provide instructions on the waiver process and on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Office of Management and Budget (OMB) Made in America Office.

When the USDOT has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the USDOT determines that:

- (1) applying the domestic content procurement preference would be inconsistent with the public interest;
- (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or

- (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at <https://www.transportation.gov/office-policy/transportation-policy/made-in-america>.

### *Definitions*

“Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Primarily iron or steel” means that the cost of the iron and steel content in the article, material, or supply exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components. The origin of the elements of the iron or steel is not relevant to the determination of whether it is domestic or foreign.

**“Project”** means the construction, alteration, maintenance, or repair of infrastructure in the United States.

- (a) Construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtitle A, 135 Stat. 429, 1294 (2021), as implemented by OMB, USDOT, and FHWA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).
- (b) Under 2 C.F.R. 200.322, as appropriate and to the extent consistent with law, the Recipient should, to the greatest extent practicable under this award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall include the requirements of 2 C.F.R. 200.322 in all subawards including all contracts and purchase orders for work or products under this award.

- 18.2 Small and Disadvantaged Business Requirements.** The Recipient shall expend all funds under this award in compliance with the requirements at 2 C.F.R. 200.321 (“Contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms”).
- 18.3 Engineering and Design Services.** The Recipient shall award each contract or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project in the same manner that a contract for architectural and engineering services is negotiated under 2 CFR 200.320 or an equivalent qualifications-based requirement prescribed for or by the Recipient.
- 18.4 Foreign Market Restrictions.** The Recipient shall not allow funds provided under this award to be used to fund the use of any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.
- 18.5 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.** The Recipient acknowledges that Section 889 of Pub. L. No. 115-232, 2 C.F.R. 200.216 and 2 C.F.R. 200.471 prohibit the Recipient and all subrecipients from procuring or obtaining certain telecommunications and video surveillance services or equipment under this award.
- 18.6 Recipient Responsibilities For Subawards.** If the Recipient makes a subaward under this award, the Recipient shall comply with the requirements on pass-through entities under 2 C.F.R. parts 200 and 1201, including 2 C.F.R. 200.331–200.333.
- 18.7 Subaward and Contract Authorization.**

If the USDOT Office for Subaward and Contract Authorization identified in section 5.1 is “FHWA Office of Acquisition and Grants Management,” then the Recipient shall obtain prior written approval from the USDOT agreement officer for the subaward or contracting out of any work under this agreement for Action Plan awards. This provision does not apply to the acquisition of supplies, material, equipment or general support services. That approval will be contingent upon a fair and reasonable price determination on the part of the Recipient and the agreement officer’s concurrence on that determination.

## **ARTICLE 19**

### **COSTS, PAYMENTS, AND UNEXPENDED FUNDS**

- 19.1 Limitation of Federal Award Amount.** Under this award, the USDOT shall not provide funding greater than the amount obligated on the SS4A Grant cover page, Item 11, Federal Funds Obligated. The Recipient acknowledges that USDOT is not liable for

payments exceeding that amount, and the Recipient shall not request reimbursement of costs exceeding that amount.

**19.2 Projects Costs.** This award is subject to the cost principles at 2 C.F.R. part 200 subpart E, including provisions on determining allocable costs and determining allowable costs.

**19.3 Timing of Project Costs.**

- (a) The Recipient shall not charge to this award costs that are incurred after the period of performance.
- (b) The Recipient shall not charge to this award costs that were incurred before the effective date of award of this agreement, unless there has been an approval pre-award costs under 2 C.F.R. 200.458. pre-award costs under 2 C.F.R. 200.458.

**19.4 Recipient Recovery of Federal Funds.** The Recipient shall make all reasonable efforts, including initiating litigation, if necessary, to recover Federal funds if the USDOT determines, after consultation with the Recipient, that those funds have been spent fraudulently, wastefully, or in violation of Federal laws, or misused in any manner under this award. The Recipient shall not enter a settlement or other final position, in court or otherwise, involving the recovery of funds under the award unless approved in advance in writing by the USDOT.

**19.5 Unexpended Federal Funds.** Any Federal funds that are awarded at section 10.1 but not expended on allocable, allowable costs remain the property of the United States.

**19.6 Timing of Payments to the Recipient.** When reimbursement is used, the Recipient shall not request reimbursement of a cost before the Recipient has entered an obligation for that cost.

**19.7 Payment Method.** The USDOT may deny a payment request that is not submitted using the method identified in section 5.2.

**19.8 Information Supporting Expenditures**

- (a) If the USDOT Payment System identified in section 5.2 is “DELPHI eInvoicing,” then when requesting reimbursement of costs incurred or credit for cost share incurred, the Recipient shall electronically submit the SF 270 (Request for Advance or Reimbursement), shall identify the Federal share and the Recipient’s share of costs, and shall submit supporting cost detail to clearly document all costs incurred. As supporting cost detail, the Recipient shall include a detailed breakout of all costs incurred, including direct labor, indirect costs, other direct costs, and travel.
- (b) If the Recipient submits a request for reimbursement that the USDOT determines does not include or is not supported by sufficient detail, the USDOT may deny the request or withhold processing the request until the Recipient provides sufficient detail.

- 19.9 Reimbursement Frequency.** If the USDOT Payment System identified in section 5.2 is “DELPHI eInvoicing,” then the Recipient shall not request reimbursement more frequently than monthly.

## **ARTICLE 20**

### **LIQUIDATION, ADJUSTMENTS, AND FUNDS AVAILABILITY**

#### **20.1 Liquidation of Recipient Obligations.**

- (a) The Recipient shall liquidate all obligations of award funds under this agreement not later than the earlier of (1) 120 days after the end of the period of performance or (2) the statutory availability to eligible entities date, which shall be 5 years after the date on which the grant is provided.
- (b) Liquidation of obligations and adjustment of costs under this agreement follow the requirements of 2 C.F.R. 200.344–200.346.

## **ARTICLE 21**

### **AGREEMENT MODIFICATIONS**

- 21.1 Bilateral Modifications.** The parties may amend, modify, or supplement this agreement by mutual agreement in writing signed by the USDOT and the Recipient. Either party may request to amend, modify, or supplement this agreement by written notice to the other party.

#### **21.2 Unilateral Contact Modifications.**

- (a) The USDOT may update the contacts who are listed in sections 4.4 by written notice to all of the Recipient contacts who are listed in section 4.3.

#### **21.3 USDOT Unilateral Modifications.**

- (a) The USDOT may unilaterally modify this agreement to comply with Federal law, including the Program Statute.
- (b) To unilaterally modify this agreement under this section 21.3(a), the USDOT must provide a notice to the Recipient that includes a description of the modification and state the date that the modification is effective.

- 21.4 Other Modifications.** The parties shall not amend, modify, or supplement this agreement except as permitted under sections 21.1, 21.2, or 21.3. If an amendment, modification, or supplement is not permitted under section 21.1, not permitted under section 21.2, and not permitted under section 21.3, it is void.

## **ARTICLE 22 CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE**

- 22.1 Climate Change and Environmental Justice.** Consistent with Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad” (Jan. 27, 2021), Attachment C documents the consideration of climate change and environmental justice impacts of the Project.

## **ARTICLE 23 RACIAL EQUITY AND BARRIERS TO OPPORTUNITY**

- 23.1 Racial Equity and Barriers to Opportunity.** Consistent with Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government” (Jan. 20, 2021), Attachment D documents activities related to the Project to improve racial equity and reduce barriers to opportunity.

## **ARTICLE 24 FEDERAL FINANCIAL ASSISTANCE, ADMINISTRATIVE, AND NATIONAL POLICY REQUIREMENTS**

- 24.1 Uniform Administrative Requirements for Federal Awards.** The Recipient shall comply with the obligations on non-Federal entities under 2 C.F.R. parts 200 and 1201.
- 24.2 Federal Law and Public Policy Requirements.**
- (a) The Recipient shall ensure that Federal funding is expended in full accordance with the United States Constitution, Federal law, and statutory and public policy requirements: including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.
  - (b) The failure of this agreement to expressly identify Federal law applicable to the Recipient or activities under this agreement does not make that law inapplicable.
- 24.3 Federal Freedom of Information Act.**
- (a) The USDOT is subject to the Freedom of Information Act, 5 U.S.C. 552.
  - (b) The Recipient acknowledges that the Technical Application and materials submitted to the USDOT by the Recipient related to this agreement may become USDOT records subject to public release under 5 U.S.C. 552.
- 24.4 History of Performance.** Under 2 C.F.R 200.206, any Federal awarding agency may consider the Recipient’s performance under this agreement when evaluating the risks of making a future Federal financial assistance award to the Recipient.

#### **24.5 Whistleblower Protection.**

- (a) The Recipient acknowledges that it is a “grantee” within the scope of 41 U.S.C. 4712, which prohibits the Recipient from taking certain actions against an employee for certain disclosures of information that the employee reasonably believes are evidence of gross mismanagement of this award, gross waste of Federal funds, or a violation of Federal law related this this award.
- (b) The Recipient shall inform its employees in writing of the rights and remedies provided under 41 U.S.C. 4712, in the predominant native language of the workforce.

#### **24.6 External Award Terms and Obligations.**

- (a) In addition to this document and the contents described in article 29, this agreement includes the following additional terms as integral parts:
  - (1) Appendix A to 2 C.F.R. part 25: System for Award Management and Universal Identifier Requirements;
  - (2) Appendix A to 2 C.F.R. part 170: Reporting Subawards and Executive Compensation;
  - (3) 2 C.F.R 175.15(b): Trafficking in Persons; and
  - (4) Appendix XII to 2 C.F.R. part 200: Award Term and Condition for Recipient Integrity and Performance Matters.
- (b) The Recipient shall comply with:
  - (1) 49 C.F.R. part 20: New Restrictions on Lobbying;
  - (2) 49 C.F.R. part 21: Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964;
  - (3) 49 C.F.R. part 27: Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance; and
  - (4) Subpart B of 49 C.F.R. part 32: Governmentwide Requirements for Drug-free Workplace (Financial Assistance).

#### **24.7 Incorporated Certifications.** The Recipient makes the statements in the following certifications, which are incorporated by reference:

- (1) Appendix A to 49 CFR part 20 (Certification Regarding Lobbying).

## **ARTICLE 25 ASSIGNMENT**

**25.1 Assignment Prohibited.** The Recipient shall not transfer to any other entity any discretion granted under this agreement, any right to satisfy a condition under this agreement, any remedy under this agreement, or any obligation imposed under this agreement.

## **ARTICLE 26 WAIVER**

### **26.1 Waivers.**

- (a) A waiver granted by USDOT under this agreement will not be effective unless it is in writing and signed by an authorized representative of USDOT.
- (b) A waiver granted by USDOT under this agreement on one occasion will not operate as a waiver on other occasions.
- (c) If USDOT fails to require strict performance of a provision of this agreement, fails to exercise a remedy for a breach of this agreement, or fails to reject a payment during a breach of this agreement, that failure does not constitute a waiver of that provision or breach.

## **ARTICLE 27 ADDITIONAL TERMS AND CONDITIONS**

**27.1 Effect of Action Plan or Implementation Plan.** Based on information that the Recipient provided to the USDOT, including the Technical Application, at indicated in section 2.5, this agreement designates this award as an Action Plan award or a Implementation award, as defined in the NOFO. The Recipient shall comply with the requirements that accompany that designation on minimum award size, geographic location, and cost sharing.

**27.2 Disclaimer of Federal Liability.** The USDOT shall not be responsible or liable for any damage to property or any injury to persons that may arise from, or be incident to, performance or compliance with this agreement.

### **27.3 Environmental Review**

(a) In this section, “**Environmental Review Entity**” means:

- (1) if the Project is located in a State that has assumed responsibilities for environmental review activities under 23 U.S.C. 326 or 23 U.S.C. 327 and the Project is within the scope of the assumed responsibilities, the State; and



- (2) for all other cases, the FHWA.
- (b) Except as authorized under section 27.3(c), the Recipient shall not begin final design; acquire real property, construction materials, or equipment; begin construction; or take other actions that represent an irretrievable commitment of resources for the Project unless and until:
  - (1) the Environmental Review Entity complies with the National Environmental Policy Act, 42 U.S.C. 4321 to 4370m-12, and any other applicable environmental laws and regulations; and
  - (2) if the Environmental Review Entity is not the Recipient, the Environmental Review Entity provides the Recipient with written notice that the environmental review process is complete.
- (c) If the Recipient is using procedures for early acquisition of real property under 23 C.F.R. 710.501 or hardship and protective acquisitions of real property 23 C.F.R. 710.503, the Recipient shall comply with 23 C.F.R. 771.113(d)(1).
- (d) The Recipient acknowledges that:
  - (1) the Environmental Review Entity's actions under section 27.3(a) depend on the Recipient conducting necessary environmental analyses and submitting necessary documents to the Environmental Review Entity; and
  - (2) applicable environmental statutes and regulation may require the Recipient to prepare and submit documents to other Federal, State, and local agencies.
- (e) Consistent with 23 C.F.R. 771.105(a), to the extent practicable and consistent with Federal law, the Recipient shall coordinate all environmental investigations, reviews, and consultations as a single process.
- (f) The activities described in this agreement may inform environmental decision-making processes, but the parties do not intend this agreement to document the alternatives under consideration under those processes. If a build alternative is selected that does not align information in this agreement, then:
  - (1) the parties may amend this agreement under section 21.1 for consistency with the selected build alternative; or
  - (2) if the USDOT determines that the condition at section 16.1(a)(5) is satisfied, the USDOT may terminate this agreement under section 16.1(a)(5).
- (g) The Recipient shall complete any mitigation activities described in the environmental document or documents for the Project, including the terms and conditions contained in the required permits and authorizations for the Project.

**27.4 Railroad Coordination.** If the agreement includes one or more milestones identified as a “Railroad Coordination Agreement,” then for each of those milestones, the Recipient shall enter a standard written railroad coordination agreement, consistent with 23 C.F.R. 646.216(d), no later than the deadline date identified for that milestone, with the identified railroad for work and operation within that railroad’s right-of-way.

**27.5 Relocation and Real Property Acquisition.**

- (a) The Recipient shall comply with the land acquisition policies in 49 C.F.R. part 24 subpart B and shall pay or reimburse property owners for necessary expenses as specified in that subpart.
- (b) The Recipient shall provide a relocation assistance program offering the services described in 49 C.F.R. part 24 subpart C and shall provide reasonable relocation payments and assistance to displaced persons as required in 49 C.F.R. part 24 subparts D–E.
- (c) The Recipient shall make available to displaced persons, within a reasonable period of time prior to displacement, comparable replacement dwellings in accordance with 49 C.F.R. part 24 subpart E.

**27.6 Equipment Disposition.**

- (a) In accordance with 2 C.F.R. 200.313 and 1201.313, if the Recipient or a subrecipient acquires equipment under this award, then when that equipment is no longer needed for the Project that entity shall request disposition instructions from the FHWA.
- (b) In accordance with 2 C.F.R. 200.443(d), the distribution of the proceeds from the disposition of equipment must be made in accordance with 2 C.F.R. 200.313–200.316 and 2 C.F.R. 1201.313.
- (c) The Recipient shall ensure compliance with this section 27.6 for all tiers of subawards under this award.

**ARTICLE 28  
MANDATORY AWARD INFORMATION**

**28.1 Information Contained in a Federal Award.** For 2 C.F.R. 200.211:

- (1) the “Federal Award Date” is the date of this agreement, as defined under section 30.2;
- (2) the “Assistance Listings Number” is 20.939 and the “Assistance Listings Title” is “Safe Streets and Roads for All Grant Program”; and
- (3) this award is not for research and development.

## ARTICLE 29 CONSTRUCTION AND DEFINITIONS

**29.1 Attachments.** This agreement includes the following attachments as integral parts:

|              |                                                  |
|--------------|--------------------------------------------------|
| Attachment A | Performance Measurement Information              |
| Attachment B | Changes from Application                         |
| Attachment C | Racial Equity and Barriers to Opportunity        |
| Attachment D | Climate Change and Environmental Justice Impacts |
| Attachment E | Labor and Workforce                              |
| Attachment F | Critical Infrastructure Security and Resilience  |

**29.2 Exhibits.** The following exhibits, which are in the document titled “Exhibits to FHWA Grant Agreements Under the Fiscal Year 2022 SS4A Grant Program”, dated February 8, 2023, and available at [URL to be inserted when posted online], are part of this agreement.

|           |                                                                             |
|-----------|-----------------------------------------------------------------------------|
| Exhibit A | Applicable Federal Laws and Regulations                                     |
| Exhibit B | Additional Standard Terms                                                   |
| Exhibit C | Quarterly Project Progress Reports and Recertifications: Format and Content |
| Exhibit D | Form for Subsequent Obligation of Funds                                     |

**29.3 Construction.** If a provision in the exhibits or the attachments conflicts with a provision in articles 1–30, then the provision in articles 1–30 prevails. If a provision in the attachments conflicts with a provision in the exhibits, then the provision in the attachments prevails.

**29.4 Integration.** This agreement constitutes the entire agreement of the parties relating to the SS4A grant program and awards under that program and supersedes any previous agreements, oral or written, relating to the SS4A grant program and awards under that program.

**29.5 Definitions.** In this agreement, the following definitions apply:

“**Program Statute**” means the BIL section 24112 and statutory text under the heading “Safe Streets and Roads for All Grants” in title I of division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (November 15, 2021), and all other provisions of that act that apply to amounts appropriated under that heading.

“**Project**” means the project proposed in the Grant Application, as modified by the negotiated provisions of this agreement, including article 3 and Attachments A–D.

“**SS4A Grant**” means an award of funds that were made available under the NOFO.

**“Grant Application”** means the application identified in section 2.1, including Standard Form 424 and all information and attachments submitted with that form through Grants.gov.

### **ARTICLE 30**

#### **AGREEMENT EXECUTION AND EFFECTIVE DATE**

- 30.1 Counterparts.** This agreement may be executed in counterparts, which constitute one document. The parties intend each countersigned original to have identical legal effect.
- 30.2 Effective Date.** The agreement will become effective when all parties have signed it. The date of this agreement will be the date this agreement is signed by the last party to sign it. This instrument constitutes a SS4A Grant when the USDOT’s authorized representative signs it.

**U.S. DEPARTMENT OF TRANSPORTATION**  
**EXHIBITS TO FHWA GRANT AGREEMENTS UNDER THE**  
**FISCAL YEAR 2022 SAFE STREETS AND ROADS FOR ALL GRANT PROGRAM**

**February 8, 2023**

## **EXHIBIT A**

### **APPLICABLE FEDERAL LAWS AND REGULATIONS**

By entering into this agreement for a FY 2022 Safe Streets and Roads for All Grant, the Recipient assures and certifies, with respect to this Grant, that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Project. Performance under this agreement shall be governed by and in compliance with the following requirements, as applicable, to the type of organization of the Recipient and any applicable sub-recipients. The applicable provisions to this agreement include, but are not limited to, the following:

#### **General Federal Legislation**

- a. Federal Fair Labor Standards Act – 29 U.S.C. 201, et seq.
- b. Hatch Act – 5 U.S.C. 1501, et seq.
- c. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 – 42 U.S.C. 4601, et seq.
- d. National Historic Preservation Act of 1966 - Section 106 – 54 U.S.C. 306108
- e. Archeological and Historic Preservation Act of 1974 – 54 U.S.C. 312501, et seq.
- f. Native American Graves Protection and Repatriation Act – 25 U.S.C. 3001, et seq.
- g. Clean Air Act, P.L. 90-148, as amended – 42 U.S.C. 7401, et seq.
- h. Section 404 of the Clean Water Act, as amended – 33 U.S.C. 1344
- i. Section 7 of the Endangered Species Act, P.L. 93-205, as amended – 16 U.S.C. 1536
- j. Coastal Zone Management Act, P.L. 92-583, as amended – 16 U.S.C. 1451, et seq.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) – 42 U.S.C. 4012a
- l. Age Discrimination Act of 1975 – 42 U.S.C. 6101, et seq.
- m. American Indian Religious Freedom Act, P.L. 95-341, as amended
- n. Drug Abuse Office and Treatment Act of 1972, as amended – 21 U.S.C. 1101, et seq.
- o. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended – 42 U.S.C. 4541, et seq.
- p. Sections 523 and 527 of the Public Health Service Act of 1912, as amended – 42 U.S.C. 290dd through 290dd-2
- q. Architectural Barriers Act of 1968 – 42 U.S.C. 4151, et seq.
- r. Power Plant and Industrial Fuel Use Act of 1978, P.L. 100-42 - Section 403 – 42 U.S.C. 8373
- s. Contract Work Hours and Safety Standards Act – 40 U.S.C. 3701, et seq.
- t. Copeland Anti-kickback Act, as amended – 18 U.S.C. 874 and 40 U.S.C. 3145
- u. National Environmental Policy Act of 1969 – 42 U.S.C. 4321, et seq.
- v. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. 1271, et seq.
- w. Federal Water Pollution Control Act, as amended – 33 U.S.C. 1251-1376
- x. Single Audit Act of 1984 – 31 U.S.C. 7501, et seq.
- y. Americans with Disabilities Act of 1990 – 42 U.S.C. 12101, et seq.
- z. Title IX of the Education Amendments of 1972, as amended – 20 U.S.C. 1681 through 1683 and 1685 through 1687
- aa. Section 504 of the Rehabilitation Act of 1973, as amended – 29 U.S.C. 794
- bb. Title VI of the Civil Rights Act of 1964 – 42 U.S.C. 2000d, et seq.
- cc. Title IX of the Federal Property and Administrative Services Act of 1949 – 40 U.S.C.

- 1101 -1104, 541, et seq.
- dd. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. 1352
  - ee. Freedom of Information Act – 5 U.S.C. 552, as amended
  - ff. Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. 1855
  - gg. Farmland Protection Policy Act of 1981 – 7 U.S.C. 4201, et seq.
  - hh. Noise Control Act of 1972 – 42 U.S.C. 4901, et seq.
  - ii. Fish and Wildlife Coordination Act of 1956 – 16 U.S.C. 661, et seq.
  - jj. Section 9 of the Rivers and Harbors Act and the General Bridge Act of 1946 – 33 U.S.C. 401 and 525
  - kk. Section 4(f) of the Department of Transportation Act of 1966 – 49 U.S.C. 303
  - ll. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended – 42 U.S.C. 9601, et seq.
  - mm. Safe Drinking Water Act – 42 U.S.C. 300f to 300j-26
  - nn. Wilderness Act – 16 U.S.C. 1131-1136
  - oo. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 – 42 U.S.C. 6901, et seq.
  - pp. Migratory Bird Treaty Act – 16 U.S.C. 703, et seq.
  - qq. The Federal Funding Transparency and Accountability Act of 2006, as amended (Pub. L. 109–282, as amended by section 6202 of Public Law 110–252)
  - rr. Cargo Preference Act of 1954 – 46 U.S.C. 55305
  - ss. Section 889 of the John D. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232

### **Executive Orders**

- a. Executive Order 11246 – Equal Employment Opportunity
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11988 – Floodplain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12549 – Debarment and Suspension
- f. Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- g. Executive Order 13166 – Improving Access to Services for Persons With Limited English Proficiency
- h. Executive Order 13985 – Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 14005 – Ensuring the Future is Made in All of America by All of America’s Workers
- j. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

### **General Federal Regulations**

- a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – 2 C.F.R. Parts 200, 1201
- b. Non-procurement Suspension and Debarment – 2 C.F.R. Parts 180, 1200
- c. Investigative and Enforcement Procedures – 14 C.F.R. Part 13
- d. Procedures for predetermination of wage rates – 29 C.F.R. Part 1

- e. Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States – 29 C.F.R. Part 3
- f. Labor standards provisions applicable to contracts governing federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act) – 29 C.F.R. Part 5
- g. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) – 41 C.F.R. Parts 60, et seq.
- h. New Restrictions on Lobbying – 49 C.F.R. Part 20
- i. Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 – 49 C.F.R. Part 21
- j. Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs – 49 C.F.R. Part 24
- k. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance – 49 C.F.R. Part 25
- l. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance – 49 C.F.R. Part 27
- m. DOT's implementation of DOJ's ADA Title II regulations compliance procedures for all programs, services, and regulatory activities relating to transportation under 28 C.F.R. Part 35
- n. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 C.F.R. Part 28
- o. Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors – 49 C.F.R. Part 30
- p. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 C.F.R. Part 32
- q. DOT's implementing ADA regulations for transit services and transit vehicles, including the DOT's standards for accessible transportation facilities in Part 37, Appendix A – 49 C.F.R. Parts 37 and 38
- r. Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs – 49 C.F.R. Part 26 (as applicable under section 18.3 of this agreement)

#### **Office of Management and Budget Circulars**

- a. Any applicable OMB Circular based upon the specific FY 2022 Safe Streets and Roads for All Grant Recipient.

#### **Highway Federal Legislation**

- a. Agreements relating to the use of an access to rights-of-way—Interstate System, 23 U.S.C. 111
- b. Planning, 23 U.S.C. 134 and 135 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)
- c. Tolls, 23 U.S.C. 301 (to the extent the recipient wishes to toll an existing free facility that has received Title 23 funds in the past); except as authorized by 23 U.S.C. 129 and 166.
- d. Efficient Environmental Reviews - 23 U.S.C. 139



- e. Policy on lands, wildlife and waterfowl refuges, and historic sites - 49 U.S.C. 303

**Federal Highway Regulations**

- a. Planning – 23 C.F.R. Part 450 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)
- b. National Highway System Design Standards – 23 C.F.R. Part 625
- c. Location and Hydraulic Design of Encroachments on Flood Plains – 23 C.F.R. Part 650 Subpart A
- d. Manual on Uniform Traffic Control Devices – 23 C.F.R. Part 655
- e. Length, Width and Weight Limitations – 23 C.F.R. Part 658
- f. Environmental Impact and Related Procedures – 23 C.F.R. Part 771
- g. Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites (Section 4(f)) – 23 C.F.R. Part 774
- h. Permitting Requirements under the National Pollutant Discharge Elimination System – 40 C.F.R. Part 122

Specific assurances required to be included in the FY 2022 Safe Streets and Roads for All Grant agreement by any of the above laws, regulations, or circulars are hereby incorporated by reference into this agreement.

**EXHIBIT B**  
**ADDITIONAL STANDARD TERMS**

**TERM B.1**  
**TITLE VI ASSURANCE**  
**(Implementing Title VI of the Civil Rights Act of 1964, as amended)**

**ASSURANCE CONCERNING NONDISCRIMINATION IN FEDERALLY-ASSISTED  
PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL  
FINANCIAL ASSISTANCE**

(Implementing the Rehabilitation Act of 1973, as amended, and the Americans With Disabilities  
Act, as amended)

49 C.F.R. Parts 21, 25, 27, 37 and 38

**The United States Department of Transportation (USDOT)**

**Standard Title VI/Non-Discrimination Assurances**

**DOT Order No. 1050.2A**

By signing and submitting the Technical Application and by entering into this agreement under the FY 2022 Safe Streets and Roads for All (SS4A) grant program, the Recipient **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration (FHWA), it is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

**General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity,” for which the Recipient receives Federal financial assistance from DOT, including the FHWA.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

### **Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FY 2022 SS4A grant program:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with the FY 2022 SS4A Grant and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*“The Recipient, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”*

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Recipient also agrees to comply (and require any sub-recipients, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA. You must keep records, reports, and submit the material for review upon request to FHWA, or its designee in a timely,

complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FY 2022 SS4A grant program. This ASSURANCE is binding on the Recipient, other recipients, sub-recipients, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FY 2022 SS4A grant program.

## APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant

thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.



## **APPENDIX B**

### **CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY**

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Specific Assurance 4:

**NOW, THEREFORE**, the U.S. Department of Transportation as authorized by law and upon the condition that the Recipient will accept title to the lands and maintain the project constructed thereon in accordance with the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103 (Mar. 15, 2022), 49 U.S.C. § 6702, the Regulations for the Administration of FY 2022 SS4A grant program, and the policies and procedures prescribed by the Federal Highway Administration (FHWA) of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

#### **(HABENDUM CLAUSE)**

**TO HAVE AND TO HOLD** said lands and interests therein unto Recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Recipient, its successors and assigns.

The Recipient, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the Recipient will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

## APPENDIX C

### CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Recipient pursuant to the provisions of Specific Assurance 7(a):

- A. The (Recipient, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
  - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (Recipient, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, Recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Recipient and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

## **APPENDIX D**

### **CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM**

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by Recipient pursuant to the provisions of Specific Assurance 7(b):

- A. The (Recipient, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (Recipient, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, Recipient will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, Recipient will there upon revert to and vest in and become the absolute property of Recipient and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

## APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 *et seq.*).

**TERM B.2**  
**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER**  
**RESPONSIBILITY MATTERS -- PRIMARY COVERED TRANSACTIONS**

**2 C.F.R. Parts 180 and 1200**

These assurances and certifications are applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 C.F.R. Parts 180 and 1200.

By signing and submitting the Technical Application and by entering into this agreement under the FY 2022 SS4A grant program, the Recipient is providing the assurances and certifications for First Tier Participants and Lower Tier Participants in the FY 2022 SS4A Grant, as set out below.

**1. Instructions for Certification – First Tier Participants:**

- a. The prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "civil judgment," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 C.F.R. Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a Recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a Recipient or subrecipient of

Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers to any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions,” provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

#### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment, including a civil settlement, rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

## **2. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 C.F.R. Parts 180 and 1200)

a. The prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms “covered transaction,” “civil settlement,” “debarred,” “suspended,” “ineligible,” “participant,” “person,” “principal,” and “voluntarily excluded,” as used in this clause, are defined in 2 C.F.R. Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a Recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a Recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered



transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**TERM B.3**  
**REQUIREMENTS REGARDING DELINQUENT TAX LIABILITY OR A FELONY**  
**CONVICTION UNDER ANY FEDERAL LAW**

As required by sections 744 and 745 of Title VII, Division E of the Consolidated Appropriations Act, 2023, Pub. L. No. 117-328 (Dec. 29, 2022), and implemented through USDOT Order 4200.6, the funds provided under this award shall not be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that:

- (1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless a Federal agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or
- (2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless a Federal agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government.

The Recipient therefore agrees:

1. **Definitions.** For the purposes of this exhibit, the following definitions apply:

**“Covered Transaction”** means a transaction that uses any funds under this award and that is a contract, memorandum of understanding, cooperative agreement, grant, loan, or loan guarantee.

**“Felony Conviction”** means a conviction within the preceding 24 months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the United States Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. 3559.

**“Participant”** means the Recipient, an entity who submits a proposal for a Covered Transaction, or an entity who enters into a Covered Transaction.

**“Tax Delinquency”** means an unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

2. **Mandatory Check in the System for Award Management.** Before entering a Covered Transaction with another entity, a Participant shall check the System for Award Management (the “SAM”) at <http://www.sam.gov/> for an entry describing that entity.
3. **Mandatory Certifications.** Before entering a Covered Transaction with another entity, a Participant shall require that entity to:
  - (1) Certify whether the entity has a Tax Delinquency; and
  - (2) Certify whether the entity has a Felony Conviction.
4. **Prohibition.** If
  - (1) the SAM entry for an entity indicates that the entity has a Tax Delinquency or a Federal Conviction;
  - (2) an entity provides an affirmative response to either certification in section 3; or
  - (3) an entity’s certification under section 3 was inaccurate when made or became inaccurate after being madethen a Participant shall not enter or continue a Covered Transaction with that entity unless the USDOT has determined in writing that suspension or debarment of that entity are not necessary to protect the interests of the Government.
5. **Mandatory Notice to the USDOT.**
  - (a) If the SAM entry for a Participant indicates that the Participant has a Tax Delinquency or a Felony Conviction, the Recipient shall notify the USDOT in writing of that entry.
  - (b) If a Participant provides an affirmative response to either certification in section 1, the Recipient shall notify the USDOT in writing of that affirmative response.
  - (c) If the Recipient knows that a Participant’s certification under section 1 was inaccurate when made or became inaccurate after being made, the Recipient shall notify the USDOT in writing of that inaccuracy.
6. **Flow Down.** For all Covered Transactions, including all tiers of subcontracts and subawards, the Recipient shall:
  - (1) require the SAM check in section 2;
  - (2) require the certifications in section 3;
  - (3) include the prohibition in section 4; and

- (4) require all Participants to notify the Recipient in writing of any information that would require the Recipient to notify the USDOT under section 5.

## **TERM B.4**

### **RECIPIENT POLICY TO BAN TEXT MESSAGING WHILE DRIVING**

(a) *Definitions.* The following definitions are intended to be consistent with the definitions in DOT Order 3902.10, Text Messaging While Driving (Dec. 30, 2009) and Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving (Oct. 1, 2009). For clarification purposes, they may expand upon the definitions in the executive order.

For the purpose of this Term B.4, “**Motor Vehicles**” means any vehicle, self-propelled or drawn by mechanical power, designed and operated principally for use on a local, State or Federal roadway, but does not include a military design motor vehicle or any other vehicle excluded under Federal Management Regulation 102-34-15.

For the purpose of this Term B.4, “**Driving**” means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic congestion, a traffic signal, a stop sign, another traffic control device, or otherwise. It does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

For the purpose of this Term B.4, “**Text messaging**” means reading from or entering data into any handheld or other electronic device (including, but not limited to, cell phones, navigational tools, laptop computers, or other electronic devices), including for the purpose of Short Message Service (SMS) texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless this practice is prohibited by State or local law. The term also does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to remain stationary.

For the purpose of this Term B.4, the “**Government**” includes the United States Government and State, local, and tribal governments at all levels.

(b) *Workplace Safety.* In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving (Oct. 1, 2009) and DOT Order 3902.10, Text Messaging While

Driving (Dec. 30, 2009), the Recipient, subrecipients, contractors, and subcontractors are encouraged to:

(1) adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving—

(i) Company-owned or -rented vehicles or Government-owned, leased or rented vehicles; or

(ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

(2) Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as—

(i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(c) *Subawards and Contracts*. To the extent permitted by law, the Recipient shall insert the substance of this exhibit, including this paragraph (c), in all subawards, contracts, and subcontracts under this award that exceed the micro-purchase threshold, other than contracts and subcontracts for the acquisition of commercially available off-the-shelf items.

## EXHIBIT C

### QUARTERLY PROJECT PROGRESS REPORTS AND RECERTIFICATIONS: FORMAT AND CONTENT

**1. Purpose.** The purpose of the Quarterly Project Progress Reports and Recertifications under this agreement for the FY 2022 SS4A grant program are to ensure that the project scope, schedule, and budget will be maintained to the maximum extent possible.

**2. Format and Content.** The Recipient shall produce a quarterly cost, schedule, and status report that contains the sections enumerated in the following list. At the discretion of the USDOT, modifications or additions can be made to produce a quarterly reporting format that will most effectively serve both the Recipient and the USDOT. Some projects will have a more extensive quarterly status than others. For smaller projects, the USDOT may determine that the content of the quarterly reports will be streamlined and project status meetings will be held on a less-frequent basis. The first quarterly progress report should include a detailed description and, where appropriate, drawings of the items funded.

**(a) Project Overall Status.** This section provides an overall status of the project's scope, schedule and budget. The Recipient shall note and explain any deviations from the scope of work, the schedule, or the budget that are described in this agreement.

**(b) Project Significant Activities and Issues.** This section provides highlights of key activities, accomplishments, and issues occurring on the project during the previous quarter. Activities and deliverables to be reported on should include meetings, audits and other reviews, design packages submitted, advertisements, awards, construction submittals, construction completion milestones, submittals related to any applicable Recovery Act requirements, media or Congressional inquiries, value engineering/constructability reviews, and other items of significance.

**(c) Action Items/Outstanding Issues.** This section should draw attention to, and track the progress of, highly significant or sensitive issues requiring action and direction in order to resolve. The Recipient should include administrative items and outstanding issues that could have a significant or adverse effect on the project's scope, schedule, or budget. Status, responsible person(s), and due dates should be included for each action item/outstanding issue. Action items requiring action or direction should be included in the quarterly status meeting agenda. The action items/outstanding issues may be dropped from this section upon full implementation of the remedial action, and upon no further monitoring anticipated.

**(d) Project Scope Overview.** The purpose of this section is to provide a further update regarding the project scope. If the original scope contained in the grant agreement is still accurate, this section can simply state that the scope is unchanged.

**(e) Project Schedule.** An updated master program schedule reflecting the current status of the program activities should be included in this section. A Gantt (bar) type chart is probably the most appropriate for quarterly reporting purposes, with the ultimate

format to be agreed upon between the Recipient and the USDOT. It is imperative that the master program schedule be integrated, i.e., the individual contract milestones tied to each other, such that any delays occurring in one activity will be reflected throughout the entire program schedule, with a realistic completion date being reported. Narratives, tables, and/or graphs should accompany the updated master program schedule, basically detailing the current schedule status, delays and potential exposures, and recovery efforts. The following information should also be included:

- Current overall project completion percentage vs. latest plan percentage.
- Completion percentages vs. latest plan percentages for major activities such as right-of-way, major or critical design contracts, major or critical construction contracts, and significant force accounts or task orders. A schedule status description should also be included for each of these major or critical elements.
- Any delays or potential exposures to milestone and final completion dates. The delays and exposures should be quantified, and overall schedule impacts assessed. The reasons for the delays and exposures should be explained, and initiatives being analyzed or implemented in order to recover the schedule should be detailed.

**(f) Project Cost.** An updated cost spreadsheet reflecting the current forecasted cost vs. the latest approved budget vs. the baseline budget should be included in this section. One way to track project cost is to show: (1) Baseline Budget, (2) Latest Approved Budget, (3) Current Forecasted Cost Estimate, (4) Expenditures or Commitments to Date, and (5) Variance between Current Forecasted Cost and Latest Approved Budget. Line items should include all significant cost centers, such as prior costs, right-of-way, preliminary engineering, environmental mitigation, general engineering consultant, section design contracts, construction administration, utilities, construction packages, force accounts/task orders, wrap-up insurance, construction contingencies, management contingencies, and other contingencies. The line items can be broken-up in enough detail such that specific areas of cost change can be sufficiently tracked and future improvements made to the overall cost estimating methodology. A Program Total line should be included at the bottom of the spreadsheet. Narratives, tables, and/or graphs should accompany the updated cost spreadsheet, basically detailing the current cost status, reasons for cost deviations, impacts of cost overruns, and efforts to mitigate cost overruns. The following information should be provided:

- Reasons for each line item deviation from the approved budget, impacts resulting from the deviations, and initiatives being analyzed or implemented in order to recover any cost overruns.
- Transfer of costs to and from contingency line items, and reasons supporting the transfers.



- Speculative cost changes that potentially may develop in the future, a quantified dollar range for each potential cost change, and the current status of the speculative change. Also, a comparison analysis to the available contingency amounts should be included, showing that reasonable and sufficient amounts of contingency remain to keep the project within the latest approved budget.
- Detailed cost breakdown of the general engineering consultant (GEC) services (if applicable), including such line items as contract amounts, task orders issued (amounts), balance remaining for tasks, and accrued (billable) costs.
- Federal obligations and/or disbursements for the project, compared to planned obligations and disbursements.

**(g) Federal Financial Report (SF-425).** The Federal Financial Report (SF-425) is a financial reporting form used throughout the Federal Government Grant system. Recipients shall complete this form and attach it to each quarterly Project Progress and Monitoring Report. The form is available at <https://www.grants.gov/forms/post-award-reporting-forms.html>.

**(h) Certifications.**

- i. A certification that the Recipient is in compliance with 2 C.F.R. 200.303 (Internal Controls) and 2 C.F.R. Part 200, Subpart F (Audit Requirements).
- ii. The certification required under 2 C.F.R. 200.415(a).

**EXHIBIT D**  
**FORM FOR SUBSEQUENT OBLIGATION OF FUNDS**

The USDOT and **[recipient name]** entered a grant agreement for the **[project name]** that was executed by the USDOT on **[date of USDOT signature on original agreement]** (the “Agreement”).

This instrument obligates **[\$XXX]** for **[insert portion of project listed in the Agreement]**.

**[Recipient name]** states that:

- (1) the Agreement accurately describe the Project’s activities;
- (2) for each completion date listed in the Agreement, the Recipient’s estimate for that milestone is not more than six months after the date listed in the Agreement;
- (3) comparing the Project’s current budget with the amounts listed in the Agreement, the “Non-Federal Funds” amount has not decreased and the total eligible project costs amount has not decreased; and
- (4) under the terms of article 21 of the General Terms and Conditions, the Recipient is not presently required to request a modification to the Agreement.

**[Recipient name]** acknowledges that USDOT is acting in reliance on the Recipient’s statements above.

|               |     |                                                                                                                                                                           |
|---------------|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| _____<br>Date | By: | _____<br>Signature of Recipient’s Authorized Representative<br><br>_____<br><b>[insert name]</b><br>_____<br>Name<br><br>_____<br><b>[insert title]</b><br>_____<br>Title |
|---------------|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

The USDOT has determined that all applicable Federal requirements for obligating these funds are satisfied.

|       |                                                |
|-------|------------------------------------------------|
| _____ | By: _____                                      |
| Date  | Signature of USDOT's Authorized Representative |
|       | <b>[insert name]</b>                           |
|       | _____                                          |
|       | Name                                           |
|       | <b>[insert title]</b>                          |
|       | _____                                          |
|       | Title                                          |



**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 26, 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 ESTABLISHING PROJECT PL2304, BESSEMER COMMERCE REVITALIZATION PROJECT, ACCEPTING A SMALL DOLLAR GRANT FROM THE COLORADO DEPARTMENT OF TRANSPORTATION, IN THE AMOUNT OF \$222,750, TRANSFERRING \$22,275 FROM CI2204 TO PL2304, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$245,025, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

**SUMMARY:**

This Ordinance establishes project PL2304 for Bessemer Commerce Revitalization, approves a purchase order for funding in the amount of \$222,750 from the State of Colorado, Colorado Department of Transportation (CDOT); transfers funds in the amount of \$22,275, and budgets and appropriates funds totaling \$247,500 into Project No. PL2304 - Bessemer Commerce Revitalization.

**PREVIOUS COUNCIL ACTION:**

None

**BACKGROUND:**

The City applied for and was awarded a grant to upgrade the pedestrian street lighting along the Northern Avenue corridor from Orman Ave. to I-25. This Ordinance establishes the Bessemer Commerce Revitalization Project PL2304, transfers the City's required 10% match (in the amount of \$22,275.00) into the new project account, and accepts the grant purchase order from CDOT.

Bessemer was the first city in Southern Colorado to have electric streetlights installed. Emphasis was placed on the artistic, "handsome" design of lampposts, as described in the Pueblo Star Journal. The existing luminaires still contribute to the historical look of the neighborhood. Rehabilitating the bulbs, globes and poles of the pedestrian lighting on the Northern Avenue corridor will be a source of cultural as well as economic

renewal for the commerce district and thus help support economic vitality while making the neighborhood more walkable for residents.

The proposed project will upgrade pedestrian and street lighting along Northern Avenue through the Bessemer Commercial Corridor and installs a vinyl printed artistic wrap on a City-owned traffic control box at the intersection of Orman and Northern.

**FINANCIAL IMPLICATIONS:**

The matching funds in the amount of \$22,275.00 are being transferred from Project No. CI2204 and budgeted and appropriated into Project No. PL2304. Funds that will be made available through the purchase order as well as the City match in the total amount of \$245,025.00 shall be budgeted and appropriated into the newly-created project account.

**BOARD/COMMISSION RECOMMENDATION:**

None.

**STAKEHOLDER PROCESS:**

None.

**ALTERNATIVES:**

Currently, there are no alternatives for completing the improvements without the funding from the Revitalizing Main Streets (RMS) Opportunity 2: Small Multimodal and Economic Resiliency Grant.

**RECOMMENDATION:**

Approve the Ordinance.

**ATTACHMENTS:**

1. 411035419-Pueblo City of\_Bessemer
2. SmallDollarGrantAwardTermsConditions\_after7.1.2022

ORDINANCE NO.

AN ORDINANCE ESTABLISHING PROJECT PL2304, BESSEMER COMMERCE REVITALIZATION PROJECT, ACCEPTING A SMALL DOLLAR GRANT FROM THE COLORADO DEPARTMENT OF TRANSPORTATION, IN THE AMOUNT OF \$222,750, TRANSFERRING \$22,275 FROM CI2204 TO PL2304, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$245,025, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

SECTION 1.

The Bessemer Commerce Revitalization Project PL2304, is hereby established.

SECTION 2.

Purchase Order No. 411035419 issued by the State of Colorado by and through the Colorado Department of Transportation dated June 1, 2023 and the associated terms and conditions attached hereto are hereby approved. The Mayor is authorized to execute said Purchase Order 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 24,750 are hereby transferred from Project No. CI2204 to Project PL2304.

SECTION 4.

Funds in the amount of \$247,500 are hereby budgeted and appropriated for the Bessemer Commerce Revitalization Project.

SECTION 5.

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

SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

**Action by City Council:**

Introduced and initial adoption of Ordinance by City Council on \_\_\_\_\_.

Final adoption of Ordinance by City Council on \_\_\_\_\_.

\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☐ Approved on \_\_\_\_\_.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

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\_\_\_\_\_  
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 Dept of Transportation  
2829 W. Howard Place  
Denver CO 80204

DATE: 06/01/2023



**Purchase Order**  
State of Colorado

**Buyer:** Phillip Caldwell  
**Phone Number:** 303-757-9756  
**Agency Contact:** KAREN Rand (Peterson)  
**Phone Number:** 303-757-9760

**IMPORTANT**  
The PO# and Line# must appear on all invoices, packing slips, cartons and correspondence

**PO# 411035419**  
**Award#:**  
**BID#:**



Page# 1 of 1

**Vendor Master#:** 2000036  
**Phone:** 719-553-2643  
**Vendor Contact:**

V  
E  
N  
D  
O  
R  
CITY OF PUEBLO  
150 CENTRAL MAIN STREET  
PUEBLO CO 81003

**Invoice**  
**TO:** CDOT DTD Business Office  
2829 W. Howard Place  
Denver CO 80204

**Payment will be made by this agency**

**Ship**  
**TO:** Colorado Dept of Transportation  
2829 W. Howard Place  
Denver CO 80204

**Delivery/Installation Date: 06/30/2024**

**INSTRUCTIONS TO VENDOR**

1. If for any reason, delivery of this order is delayed beyond the delivery/Installation date shown, please notify the agency contact named at the top left (Right of cancellation is reserved in instances in which timely delivery is not made). 2. All chemicals, equipment and materials must conform to the standards required by OSHA. 3. NOTE: Additional terms and conditions on reverse side or at address shown in Special Instructions.

**SPECIAL INSTRUCTIONS**  
\*The Small Dollar Grant Award Terms and Conditions supersede CDOT's Standard Terms and Conditions and can be found on our website:  
<https://www.codot.gov/business/procurement-and-contract-services> or directly at:  
[https://drive.google.com/file/d/1SPHvQQpes69ghjik3Gf\\_aOBUoCGjBo2B/view](https://drive.google.com/file/d/1SPHvQQpes69ghjik3Gf_aOBUoCGjBo2B/view)

| LINE  | PRODUCT NUMBER<br>PRODUCT CATEGORY<br>DESCRIPTION        | UOM<br>PLANT | QUANTITY   | UNIT COST | TOTAL ITEM COST |
|-------|----------------------------------------------------------|--------------|------------|-----------|-----------------|
| 00001 | 96100<br>23-HTD-ZB-<br>03584_RMSPuebBessemerRe<br>vitlzn | AU<br>7001   | 222,750.00 | 1.00      | 222,750.00      |

FY23 Revitalizing Main Streets Program Project  
Project Manager: Morgan Olsen

The Revitalizing Main Streets grant is intended to help the City of Pueblo - Bessemer Commerce Revitalization Project.

Purchase Order number must be shown on all invoices. The amount shown on the Purchase Order is the total grant amount awarded by CDOT and shall be the maximum amount reimbursable to the Grantee. The Grantee is responsible for the minimum 10% required local match and any overage in project cost.

Project End Date: 6/30/2024

**DOCUMENT TOTAL: 222,750.00**

THIS PO IS ISSUED IN ACCORDANCE WITH STATE AND FEDERAL REGULATIONS  
<https://docs.google.com/document/d/163tsdL-HL3aALGtSuB8n37nDs0jVdrLk/edit?usp=sharing&ouid=115488077715681115005&rtpof=true&sd=true>  
DP-01 (R-02/06)

FOR THE STATE OF COLORADO

Authorized Signature Date

Signature not required if PO transmitted electronically.



## State of Colorado Small Dollar Grant Award Terms and Conditions

1. **Offer/Acceptance.** This Small Dollar Grant Award, together with these terms and conditions (including, if applicable, Addendum 1: Additional Terms and Conditions for Information Technology below), and any other attachments, exhibits, specifications, or appendices, whether attached or incorporated by reference (collectively the “Agreement”) shall represent the entire and exclusive agreement between the State of Colorado, by and through the agency identified on the face of the Small Dollar Grant Award (“State”) and the Subrecipient identified on the face of the Small Dollar Grant Award (“Grantee”). If this Agreement refers to Grantee’s bid or proposal, this Agreement is an ACCEPTANCE of Grantee’s OFFER TO PERFORM in accordance with the terms and conditions of this Agreement. If a bid or proposal is not referenced, this Agreement is an OFFER TO ENTER INTO AGREEMENT, subject to Grantee’s acceptance, demonstrated by Grantee’s beginning performance or written acceptance of this Agreement. Any COUNTER-OFFER automatically CANCELS this Agreement, unless a change order is issued by the State accepting a counter-offer. Except as provided herein, the State shall not be responsible or liable for any Work performed prior to issuance of this Agreement. The State’s financial obligations to the Grantee are limited by the amount of Grant Funds awarded as reflected on the face of the Small Dollar Grant Award.
2. **Order of Precedence.** In the event of a conflict or inconsistency within this Agreement, such conflict or inconsistency shall be resolved by giving preference to the documents in the following order of priority: **(1)** the Small dollar Grant Award document; **(2)** these terms and conditions (including, if applicable, Addendum 1 below); and **(3)** any attachments, exhibits, specifications, or appendices, whether attached or incorporated by reference. Notwithstanding the above, if this Agreement has been funded, in whole or in part, with a Federal Award, in the event of a conflict between the Federal Grant and this Agreement, the provisions of the Federal Grant shall control. Grantee shall comply with all applicable Federal provisions at all times during the term of this Agreement. Any terms and conditions included on Grantee’s forms or invoices not included in this Agreement are void.
3. **Changes.** Once accepted in accordance with **§1**, this Agreement shall not be modified, superseded or otherwise altered, except in writing by the State and accepted by Grantee.
4. **Definitions.** The following terms shall be construed and interpreted as follows: **(a) “Award”** means an award by a Recipient to a Subrecipient; **(b) “Budget”** means the budget for the Work described in this Agreement; **(c) “Business Day”** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in CRS §24-11-101(1); **(d) “UCC”** means the Uniform Commercial Code in CRS Title 4; **(e) “Effective Date”** means the date on which this Agreement is issued as shown on the face of the Small Dollar Grant Award; **(f) “Federal Award”** means an award of federal financial assistance or a cost-reimbursement contract, , by a Federal Awarding Agency to the Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award, which terms and conditions shall flow down to the Award unless such terms and conditions specifically indicate otherwise. The term does not include payments to a vendor or payments to an individual that is a beneficiary of a Federal program; **(g) “Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient; **(h) “Grant Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement; **(i) “Matching Funds”** mean the funds provided by the Grantee to meet cost sharing requirements described in this Agreement; **(j) “Recipient”** means the State agency identified on the face of the Small Dollar Grant Award; **(k) “Subcontractor”** means

## State of Colorado Small Dollar Grant Award Terms and Conditions

third parties, if any, engaged by Grantee to aid in performance of the Work; (l) **“Subrecipient”** means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a program, but does not include an individual that is a beneficiary of such program; (m) **“Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, identified as the 2 C.F.R. (Code of Federal Regulations) Part 200, commonly known as the “Super Circular,” which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular a-50 on Single Audit Act follow-up; and (n) **“Work”** means the goods delivered or services, or both, performed pursuant to this Agreement and identified as Line Items on the face of the Small Dollar Grant Award.

5. **Delivery.** Grantee shall furnish the Work in strict accordance with the specifications and price set forth in this Agreement. The State shall have no liability to compensate Grantee for the performance of any Work not specifically set forth in the Agreement.
6. **Rights to Materials.** *[Not Applicable to Agreements issued either in whole in part for Information Technology, as defined in CRS § 24-37.5-102(2); in which case Addendum 1 §2 applies in lieu of this section.]* Unless specifically stated otherwise in this Agreement, all materials, including without limitation supplies, equipment, documents, content, information, or other material of any type, whether tangible or intangible (collectively “Materials”), furnished by the State to Grantee or delivered by Grantee to the State in performance of its obligations under this Agreement shall be the exclusive property the State. Grantee shall return or deliver all Materials to the State upon completion or termination of this Agreement.
7. **Grantee Records.** Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work (including, but not limited to the operation of programs) performed under this Agreement (collectively “Grantee Records”). Unless otherwise specified by the State, the Grantee shall retain Grantee Records for a period (the “Record Retention Period”) of three years following the date of submission to the State of the final expenditure report, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims or audit finding have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight, or indirect costs, and the State, may notify Grantee in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property. Grantee shall permit the State, the federal government, and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and transcribe Grantee Records during the Record Retention Period. Grantee shall make Grantee Records available during normal business hours at Grantee’s office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two Business Days’ notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State. The State, in its discretion, may monitor Grantee’s performance of its obligations under this Agreement using procedures as determined by the State. The federal government and any other duly authorized agent of a governmental

## State of Colorado Small Dollar Grant Award Terms and Conditions

agency, in its discretion, Grantee shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Grantee and this Agreement, and the State shall have the right, in its discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State will monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work. Grantee shall promptly submit to the State a copy of any final audit report of an audit performed on Grantee Records that relates to or affects this Agreement or the Work, whether the audit is conducted by Grantee, a State agency or the State's authorized representative, or a third party. If applicable, the Grantee may be required to perform a single audit under 2 CFR 200.501, *et seq.* Grantee shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

8. **Reporting.** If Grantee is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Grantee's ability to perform its obligations under this Agreement, Grantee shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State. Grantee shall disclose, in a timely manner, in writing to the State and the Federal Awarding Agency, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Award. The State or the Federal Awarding Agency may impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.
9. **Conflicts of Interest.** Grantee acknowledges that with respect to this Agreement, even the appearance of a conflict of interest is harmful to the State's interests. Absent the State's prior written approval, Grantee shall refrain from any practices, activities, or relationships that reasonably may appear to be in conflict with the full performance of Grantee's obligations to the State under this Agreement. If a conflict or appearance of a conflict of interest exists, or if Grantee is uncertain as to such, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement. Grantee certifies that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's Services and Grantee shall not employ any person having such known interests. Grantee acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Grantee further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S. with regard to this Grant.
10. **Taxes.** The State is exempt from federal excise taxes and from State and local sales and use taxes. The State shall not be liable for the payment of any excise, sales, or use taxes imposed on Grantee. A tax exemption certificate will be made available upon Grantee's request. Grantee shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Grantee may wish to have in place in connection with this Agreement.
11. **Payment.** Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Agreement that exceeds the

## State of Colorado Small Dollar Grant Award Terms and Conditions

Document Total shown on the face of the Small Dollar Grant Award. The State shall pay Grantee in the amounts and in accordance with the schedule and other conditions set forth in this Agreement. Grantee shall initiate payment requests by invoice to the State, in a form and manner approved by the State. The State shall pay Grantee for all amounts due within 45 days after receipt of an Awarding Agency's approved invoicing request, or in instances of reimbursement grant programs a request for reimbursement, compliant with Generally Accepted Accounting Principles (GAAP) and, if applicable Government Accounting Standards Board (GASB) of amount requested. Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate set forth in CRS §24-30-202(24) until paid in full. Interest shall not accrue if a good faith dispute exists as to the State's obligation to pay all or a portion of the amount due. Grantee shall invoice the State separately for interest on delinquent amounts due, referencing the delinquent payment, number of day's interest to be paid, and applicable interest rate. The acceptance of an invoice shall not constitute acceptance of any Work performed under this Agreement. Except as specifically agreed in this Agreement, Grantee shall be solely responsible for all costs, expenses, and other charges it incurs in connection with its performance under this Grantee.

12. **Term.** The parties' respective performances under this Agreement shall commence on the "Service From" date identified on the face of the Small Dollar Grant Award, unless otherwise specified, and shall terminate on the "Service To" date identified on the face of the Small Dollar Grant Award unless sooner terminated in accordance with the terms of this Agreement.
13. **Payment Disputes.** If Grantee disputes any calculation, determination or amount of any payment, Grantee shall notify the State in writing of its dispute within 30 days following the earlier to occur of Grantee's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Grantee and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.
14. **Matching Funds.** Grantee shall provide Matching Funds, if required by this Agreement. If permitted under the terms of the grant and per this Agreement, Grantee may be permitted to provide Matching Funds prior to or during the course of the project or the match will be an in-kind match. Grantee shall report to the State regarding the status of such funds upon request. Grantee's obligation to pay all or any part of any Matching Funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Grantee and paid into Grantee's treasury or bank account. Grantee represents to the State that the amount designated "Grantee's Matching Funds" pursuant to this Agreement, has been legally appropriated for the purposes of this Agreement by its authorized representatives and paid into its treasury or bank account. Grantee does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of Grantee. Grantee shall not pay or be liable for any claimed interest, late



## State of Colorado Small Dollar Grant Award Terms and Conditions

charges, fees, taxes or penalties of any nature, except as required by Grantee's laws or policies.

15. **Reimbursement of Grantee Costs.** If applicable, the State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in this Agreement for all allowable costs described in the grant except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to, and received approval from the State of the change, the change does not modify the total maximum amount of this Agreement, and the change does not modify any requirements of the Work. If applicable, the State shall reimburse Grantee for the properly documented allowable costs related to the Work after review and approval thereof, subject to the provisions of this Agreement. However, any costs incurred by Grantee prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs. Grantee's costs for Work performed after the "Service To" date identified on the face of the Small Dollar Grant Award, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable. The State shall only reimburse allowable costs described in this Agreement and shown in the Budget if those costs are **(a)** reasonable and necessary to accomplish the Work, and **(b)** equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the costs actually incurred).
16. **Close-Out.** Grantee shall close out this Award within 45 days after the "Service To" date identified on the face of the Small Dollar Grant Award, including any modifications. To complete close-out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Agreement and Grantee's final reimbursement request or invoice. In accordance with the Agreement, the State may withhold a percentage of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete.
17. **Assignment.** Grantee's rights and obligations under this Agreement may not be transferred or assigned without the prior, written consent of the State and execution of a new agreement. Any attempt at assignment or transfer without such consent and new agreement 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 Agreement.
18. **Subcontracts.** Grantee shall not enter into any subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Grantee shall submit to the State a copy of each subcontract upon request by the State. All subcontracts entered into by Grantee in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement.
19. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations in accordance with the intent of the Agreement.
20. **Survival of Certain Agreement Terms.** Any provision of this Agreement that imposes an obligation on a party after termination or expiration of the Agreement shall survive the termination or expiration of the Agreement and shall be enforceable by the other party.

## State of Colorado Small Dollar Grant Award Terms and Conditions

21. **Third Party Beneficiaries.** Except for the parties' respective successors and assigns, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.
22. **Waiver.** A party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.
23. **Indemnification.** *[Not Applicable to Inter-governmental agreements]* Grantee shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Grantee, or its employees, agents, Subcontractors, or assignees in connection with this Agreement. This shall include, without limitation, any and all costs, expenses, claims, damages, liabilities, court awards and other amounts incurred by the Indemnified Parties in relation to any claim that any work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right or any claim for loss or improper disclosure of any confidential information or personally identifiable information. If Grantee is a public agency prohibited by applicable law from indemnifying any party, then this section shall not apply.
24. **Notice.** All notices given under this Agreement shall be in writing, and shall be delivered to the contacts for each party listed on the face of the Small Dollar Grant Award. Either party may change its contact or contact information by notice submitted in accordance with this section without a formal modification to this Agreement.
25. **Insurance.** Except as otherwise specifically stated in this Agreement or any attachment or exhibit to this Agreement, Grantee shall obtain and maintain insurance as specified in this section at all times during the term of the Agreement: (a) workers' compensation insurance as required by state statute, and employers' liability insurance covering all Grantee employees acting within the course and scope of their employment, (b) Commercial general liability insurance written on an Insurance Services Office occurrence form, covering premises operations, fire damage, independent vendors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows: \$1,000,000 each occurrence; \$1,000,000 general aggregate; \$1,000,000 products and completed operations aggregate; and \$50,000 any one fire, and (c) Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit. If Grantee will or may have access to any protected information, then Grantee shall also obtain and maintain insurance covering loss and disclosure of protected information and claims based on alleged violations of privacy right through improper use and disclosure of protected information with limits of \$1,000,000 each occurrence and \$1,000,000 general aggregate at all times during the term of the Small Dollar Grant Award. Additional insurance may be required as provided elsewhere in this Agreement or any attachment or exhibit to this Agreement. All insurance policies required by this Agreement shall be issued by insurance companies with an AM Best

## State of Colorado Small Dollar Grant Award Terms and Conditions

rating of A-VIII or better. If Grantee is a public agency within the meaning of the Colorado Governmental Immunity Act, then this section shall not apply and Grantee shall instead comply with the Colorado Governmental Immunity Act. The State shall be named as additional insured on all commercial general liability policies required of Vendor. All insurance policies secured or maintained by Vendor in relation to this Purchase Order shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Vendor or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

26. **Termination Prior to Grantee Acceptance.** If Grantee has not begun performance under this Agreement, the State may cancel this Agreement by providing written notice to the Grantee.
27. **Termination for Cause.** If Grantee refuses or fails to timely and properly perform any of its obligations under this Agreement with such diligence as will ensure its completion within the time specified in this Agreement, the State may notify Grantee in writing of non-performance and, if not corrected by Grantee within the time specified in the notice, terminate Grantee's right to proceed with the Agreement or such part thereof as to which there has been delay or a failure. Grantee shall continue performance of this Agreement to the extent not terminated. Grantee shall be liable for excess costs incurred by the State in procuring similar Work and the State may withhold such amounts, as the State deems necessary. If after rejection, revocation, or other termination of Grantee's right to proceed under the Colorado Uniform Commercial Code (CUCC) or this clause, the State determines for any reason that Grantee was not in default or the delay was excusable, the rights and obligations of the State and Grantee shall be the same as if the notice of termination had been issued pursuant to termination under **§28**.
28. **Termination in Public Interest.** The State is entering into this Agreement for the purpose of carrying out the public interest of the State, as determined by its Governor, General Assembly, Courts, or Federal Awarding Agency. If this Agreement ceases to further the public interest of the State as determined by its Governor, General Assembly, Courts, or Federal Awarding Agency, the State, in its sole discretion, may terminate this Agreement in whole or in part and such termination shall not be deemed to be a breach of the State's obligations hereunder. This section shall not apply to a termination for cause, which shall be governed by **§27**. A determination that this Small Dollar Grant Award should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. The State shall give written notice of termination to Grantee specifying the part of the Agreement terminated and when termination becomes effective. Upon receipt of notice of termination, Grantee shall not incur further obligations except as necessary to mitigate costs of performance. The State shall pay the Agreement price or rate for Work performed and accepted by State prior to the effective date of the notice of termination. The State's termination liability under this section shall not exceed the total Agreement price.
29. **Termination for Funds Availability.** The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Grantee beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Grant Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Grant Funds, the State's obligation to pay Grantee shall be contingent upon such non-State

## State of Colorado Small Dollar Grant Award Terms and Conditions

funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Grant Funds, and the State's liability for such payments shall be limited to the amount remaining of such Grant Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Work performed and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in §28.

30. **Grantee's Termination Under Federal Requirements.** If the Grant Funds include any federal funds, then Grantee may request termination of this Grant by sending notice to the State, or to the Federal Awarding Agency with a copy to the State, which includes the reasons for the termination and the effective date of the termination. If this Grant is terminated in this manner, then Grantee shall return any advanced payments made for Work that will not be performed prior to the effective date of the termination.
31. **Governmental Immunity.** Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, CRS §24-10-101, *et seq.*, 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, CRS §§24-30-1501, *et seq.* No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.
32. **Grant Recipient.** Grantee shall perform its duties hereunder as a grant recipient and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Grantee 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 Grantee or any of its agents or employees. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Grantee 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.**
33. **Compliance with Law.** Grantee shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
34. **Choice of Law, Jurisdiction and Venue.** **[Not Applicable to Inter-governmental agreements]** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and



## State of Colorado Small Dollar Grant Award Terms and Conditions

County of Denver. Any provision incorporated herein by reference which purports to negate this or any other provision in this Agreement 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 or for any other reason shall not invalidate the remainder of this Agreement, to the extent capable of execution. Grantee shall exhaust administrative remedies in CRS §24-109-106, prior to commencing any judicial action against the State regardless of whether the Colorado Procurement Code applies to this Agreement.

35. **Prohibited Terms.** Nothing in this Agreement shall be construed as a waiver of any provision of CRS §24-106-109. Any term included in this Agreement that requires the State to indemnify or hold Grantee harmless; requires the State to agree to binding arbitration; limits Grantee's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with that statute in any way shall be void ab initio.

## **ADDENDUM 1:**

### **Additional Terms & Conditions for Information Technology**

IF ANY PART OF THE SUBJECT MATTER OF THIS AGREEMENT IS INFORMATION TECHNOLOGY, AS DEFINED IN CRS § 24-37.5-102 (2), THE FOLLOWING PROVISIONS ALSO APPLY TO THIS AGREEMENT.

- A. **Definitions.** The following terms shall be construed and interpreted as follows: **(a) “CJI”** means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended, and all Criminal Justice Records as defined under CRS §24-72-302; **(b) “Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, pursuant to CRS §§24-37.5-401 *et seq.*; **(c) “PCI”** means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law; **(d) “PHI”** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium 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 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 including, without limitation, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act; **(e) “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, including, without limitation, all information defined as personally identifiable information in CRS §24-72-501. . “PII” shall also mean “personal identifying information” as set forth at § 24-74-102, *et. seq.*, C.R.S. ; **(f) “State Confidential Information”** means any and all State Records not subject to disclosure under the Colorado Open Records Act and includes, without limitation, PII, PHI, PCI, Tax Information, CJI, and State personnel records not subject to disclosure under the Colorado Open Records Act, **(g) “State Fiscal Rules”** means those fiscal rules promulgated by the Colorado State Controller pursuant to CRS §24-30-202(13)(a); **(h) “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; **(i) “State Records”** means any and all State data, information, and records, regardless of physical form; **(j) “Tax Information”** means federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation, including, without limitation all information defined as federal tax information in Internal Revenue Service Publication 1075; and **(k) “Work Product”** means the tangible and intangible results of the delivery of goods and performance of services, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports,

## **ADDENDUM 1:**

### **Additional Terms & Conditions for Information Technology**

proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, information, and any other results of the Work, but does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

**B. Intellectual Property.** Except to the extent specifically provided elsewhere in this Agreement, any State information, including without limitation pre-existing State software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials; or Work Product prepared by Grantee in the performance of its obligations under this Agreement shall be the exclusive property of the State (collectively, "State Materials"). All State Materials shall be delivered to the State by Grantee upon completion or termination of this Agreement. The State's exclusive rights in any Work Product prepared by Grantee shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works. Grantee shall not use, willingly allow, cause or permit any State Materials to be used for any purpose other than the performance of Grantee's obligations hereunder without the prior written consent of the State. The State shall maintain complete and accurate records relating to **(a)** its use of all Grantee and third party software licenses and rights to use any Grantee or third party software granted under this Agreement and its attachments to which the State is a party and **(b)** all amounts payable to Grantee pursuant to this Agreement and its attachments and the State's obligations under this Agreement or any amounts payable to Grantee in relation to this Agreement, which records shall contain sufficient information to permit Grantee to confirm the State's compliance with the use restrictions and payment obligations under this Agreement or to any third party use restrictions to which the State is a party. Grantee retains the exclusive rights, title and ownership to any and all pre-existing materials owned or licensed to Grantee including, but not limited to all pre-existing software, licensed products, associated source code, machine code, text images, audio, video, and third party materials, delivered by Grantee under the Agreement, whether incorporated in a deliverable or necessary to use a deliverable (collectively, "Grantee Property"). Grantee Property shall be licensed to the State as set forth in a State-approved license agreement **(a)** entered into as exhibits or attachments to this Agreement, **(b)** obtained by the State from the applicable third party Grantee, or **(c)** in the case of open source software, the license terms set forth in the applicable open source license agreement. Notwithstanding anything to the contrary herein, the State shall not be subject to any provision incorporated in any exhibit or attachment attached hereto, any provision incorporated in any terms and conditions appearing on any website, any provision incorporated into any click through or online agreements, or any provision incorporated into any other document or agreement between the parties that **(a)** requires the State or the State to indemnify Grantee or any other party, **(b)** is in violation of State laws, regulations, rules, State Fiscal Rules, policies, or other State requirements as deemed solely by the State, or **(c)** is contrary to this Agreement.

**C. Information Confidentiality.** Grantee shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Grantee shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Agreement, permitted by law, or approved in writing by the State. If

## **ADDENDUM 1:**

### **Additional Terms & Conditions for Information Technology**

Grantee will or may have access to any State Confidential Information or any other protected information, Grantee shall provide for the security of all State Confidential Information in accordance with all applicable laws, rules, policies, publications, and guidelines. Grantee shall comply with all Colorado Office of Information Security ("OIS") policies and procedures which OIS has issued pursuant to CRS §§24-37.5-401 through 406 and 8 CCR §1501-5 and posted at <https://oit.colorado.gov/standards-policies-guides/technical-standards-policies>, all information security and privacy obligations imposed by any federal, state, or local statute or regulation, or by any industry standards or guidelines, as applicable based on the classification of the data relevant to Grantee's performance under this Agreement. Such obligations may arise from: Health Information Portability and Accountability Act (HIPAA); IRS Publication 1075; Payment Card Industry Data Security Standard (PCI-DSS); FBI Criminal Justice Information Service Security Addendum; Centers for Medicare & Medicaid Services (CMS) Minimum Acceptable Risk Standards for Exchanges; and Electronic Information Exchange Security Requirements and Procedures for State and Local Agencies Exchanging Electronic Information with The Social Security Administration. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

**D. 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 Agreement. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force at all times the agent, employee, assign, or Subcontractors has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions if requested by the State.

**E. Use, Security, and Retention.** Grantee shall use, hold, and maintain State Confidential Information in compliance with any and all applicable laws and regulations only in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information. 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 Agreement, 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 Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

**F. 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. Unless Grantee can establish none of Grantee or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Grantee shall be responsible for the cost of notifying each person who may have been impacted by the Incident. 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,

## **ADDENDUM 1:**

### **Additional Terms & Conditions for Information Technology**

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. The State may adjust or direct modifications to this plan, in its sole discretion and Grantee shall make all modifications as directed by the State. If Grantee cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Grantee shall reimburse the State for the reasonable actual costs thereof.

G. **Data Protection and Handling.** Grantee shall ensure that all State Records and Work Product in the possession of Grantee or any Subcontractors are protected and handled in accordance with the requirements of this Agreement at all times. Upon request by the State made any time prior to 60 days following the termination of this Agreement for any reason, whether or not this Agreement is expiring or terminating, Grantee shall make available to the State a complete and secure download file of all data that is encrypted and appropriately authenticated. This download file shall be made available to the State within 10 Business Days following the State's request, and shall contain, without limitation, all State Records, Work Product, and any other information belonging to the State. Upon the termination of Grantee's services under this Agreement, Grantee shall, as directed by the State, return all State Records provided by the State to Grantee, and the copies thereof, to the State or destroy all such State Records and certify to the State that it has done so. If legal obligations imposed upon Grantee prevent Grantee from returning or destroying all or part of the State Records provided by the State, Grantee shall guarantee the confidentiality of all State Records in Grantee's possession and will not actively process such data. The State retains the right to use the established operational services to access and retrieve State Records stored on Grantee's infrastructure at its sole discretion and at any time.

H. **Compliance.** If applicable, Grantee shall review, on a semi-annual basis, all OIS policies and procedures which OIS has promulgated pursuant to CRS §§ 24-37.5-401 through 406 and 8 CCR § 1501-5 and posted at <https://oit.colorado.gov/standards-policies-guides/technical-standards-policies>, to ensure compliance with the standards and guidelines published therein. Grantee shall cooperate, and shall cause its Subcontractors to cooperate, with the performance of security audit and penetration tests by OIS or its designee.

I. **Safeguarding PII.** If Grantee or any of its Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, all State requirements relating to non-disclosure, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall take full responsibility for the security of all PII in its possession or in the possession of its Subcontractors, and shall hold the State harmless for any damages or liabilities resulting from the unauthorized disclosure or loss thereof. Grantee shall be a "Third-Party Service Provider" as defined in CRS §24-73-103(1)(i) and shall maintain security procedures and practices consistent with CRS §§24-73-101 *et seq.* In addition, as set forth in § 24-74-102, *et. seq.*, C.R.S., Vendor, including, but not limited to, Vendor's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If



## **ADDENDUM 1:**

### **Additional Terms & Conditions for Information Technology**

Vendor is given direct access to any State databases containing PII, Vendor shall execute, on behalf of itself and its employees, the certification [PII Individual Certification Form](#) or [PII Entity Certification Form](#) [Download form from Hyperlink] on an annual basis and Vendor's duty shall continue as long as Vendor has direct access to any State databases containing PII. If Vendor uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Vendor shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

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

**K. Information Technology.** To the extent that Grantee provides physical or logical storage of State Records; Grantee creates, uses, processes, discloses, transmits, or disposes of State Records; or Grantee is otherwise given physical or logical access to State Records in order to perform Grantee's obligations under this Agreement, the following terms shall apply. Grantee shall, and shall cause its Subcontractors, to: Provide physical and logical protection for all hardware, software, applications, and data that meets or exceeds industry standards and the requirements of this Agreement; Maintain network, system, and application security, which includes, but is not limited to, network firewalls, intrusion detection (host and network), annual security testing, and improvements or enhancements consistent with evolving industry standards; Comply with State and federal rules and regulations related to overall security, privacy, confidentiality, integrity, availability, and auditing; Provide that security is not compromised by unauthorized access to workspaces, computers, networks, software, databases, or other physical or electronic environments; Promptly report all Incidents, including Incidents that do not result in unauthorized disclosure or loss of data integrity, to a designated representative of the OIS; Comply with all rules, policies, procedures, and standards issued by the Governor's Office of Information Technology (OIT), including project lifecycle methodology and governance, technical standards, documentation, and other requirements posted at <https://oit.colorado.gov/standards-policies-guides/technical-standards-policies>. Grantee shall not allow remote access to State Records from outside the United States, including access by Grantee's employees or agents, without the prior express written consent of OIS. Grantee shall communicate any request regarding non-U.S. access to State Records to the State. The State, acting by and through OIS, shall have sole discretion to grant or deny any such request.

**L. Accessibility.** Grantee shall comply with and the Work Product provided under this PO 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

## **ADDENDUM 1:**

### **Additional Terms & Conditions for Information Technology**

version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards. Grantee shall indemnify, save, and hold harmless the Indemnified Parties against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to Grantee's failure to comply with §§24-85-101, *et seq.*, C.R.S., or the *Accessibility Standards for Individuals with a Disability* as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S. 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.



**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 26, 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 ESTABLISHING PROJECT WW2305, THE PRETREATMENT BUILDING PROJECT, TRANSFERRING \$150,000 FROM WW9999 TO WW2305, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$150,000, APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING AND ARCHITECTURAL SERVICES, PROJECT 23-046 IN THE AMOUNT OF \$129,406.00 BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SHORT ELLIOTT HENDRICKSON, INC., AND AUTHORIZING THE MAYOR TO EXECUTE SAME

**SUMMARY:**

This Ordinance creates account Project WW2305 for the Pretreatment Building Project, transfers funds in the amount of \$150,000.00 from account Project WW9999 to WW2305- Pretreatment Building Project, budgets and appropriates funds totaling \$150,000.00 for the Project, and approves an agreement for Professional Engineering and Architectural Services.

**PREVIOUS COUNCIL ACTION:**

None

**BACKGROUND:**

The project goal consists of renovating the existing Wastewater Headworks Building for it to be adapted to the Wastewater Pretreatment Building. The project renovation includes one (1) management office space, work area for five cubicles, a cleaning and calibration work area, one (1) break room, one (1) unisex ADA accessible restroom, a conference room, and a vehicle bay that accommodates two (2) vehicles. In addition, the building requires upgrade/redesign of the mechanical and electrical systems.

The Wastewater Headworks Building was constructed in 1937 and comprises approximately 3,300 sq. ft. (excluding the basement). The building is constructed of



brick and concrete and was utilized as the original headworks building for the old plant.

**FINANCIAL IMPLICATIONS:**

The funds in the amount of \$150,000.00 are being transferred from Project WW9999 to WW2305.

Funds in the amount of \$150,000.00 shall be budgeted and appropriated for Project 23-046 from account WW2305.

**BOARD/COMMISSION RECOMMENDATION:**

None.

**STAKEHOLDER PROCESS:**

None.

**ALTERNATIVES:**

Currently, there are no alternatives for completing the improvements without the funding from WW9999 and the design by Short Elliott Hendrickson, Inc.

**RECOMMENDATION:**

Approve the Ordinance.

**ATTACHMENTS:**

1. 23-046 SEH Agmt for Design of Pretreatment Bldg

## ORDINANCE NO.

AN ORDINANCE ESTABLISHING PROJECT WW2305, THE PRETREATMENT BUILDING PROJECT, TRANSFERRING \$150,000 FROM WW9999 TO WW2305, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$150,000, APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING AND ARCHITECTURAL SERVICES, PROJECT 23-046 IN THE AMOUNT OF \$129,406.00 BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SHORT ELLIOTT HENDRICKSON, INC., AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, proposals for Project No. 23-046, Design of Future Wastewater Pretreatment Building have been received and examined; and,

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

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

### SECTION 1.

Project WW2305, Design and Construct Wastewater Pretreatment Building, is hereby established.

### SECTION 2.

Funds in the amount of \$150,000.00 are hereby transferred from account Project WW9999 into account Project WW2305, Design and Construct Pretreatment Building, and budgeted and appropriated for project WW2305.

### SECTION 3.

The City Council authorizes Project No. 23-046 Design of Future Wastewater Treatment Building to be performed, and the contract for said services is hereby awarded to Short Elliott Hendrickson, Inc., in the amount of \$129,406.00.

### SECTION 4.

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 same.

### SECTION 5.

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

### SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

**Action by City Council:**

Introduced and initial adoption of Ordinance by City Council on \_\_\_\_\_.

Final adoption of Ordinance by City Council on \_\_\_\_\_.

\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☐ Approved on \_\_\_\_\_.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Mayor

**Action by City Council After Disapproval by the Mayor:**

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of \_\_\_\_\_, on \_\_\_\_\_

☐ Council action on \_\_\_\_\_ failed to override the Mayor's veto.

\_\_\_\_\_  
President of City Council

ATTEST

\_\_\_\_\_  
City Clerk



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

23-046 DESIGN OF FUTURE WASTEWATER  
PRETREATMENT BUILDING

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

THIS AGREEMENT ("Agreement") made and entered this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by and between the City of Pueblo, a Municipal Corporation (hereinafter referred to as "City") and Short Elliott Hendrickson, Incorporated, a Minnesota Corporation authorized to do business in the State of Colorado (hereinafter referred to as "Consultant") a professional engineering and architectural firm, for Consultant to render certain professional architectural, design, engineering, planning, and related services for City in connection with Bid 23-046 Design of Future Wastewater Pretreatment Building, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

### **1. GENERAL**

Consultant shall satisfactorily perform professional engineering and architectural services for all phases of Project indicated below by mark placed in the appropriate box or boxes:

[n/a] - Study and Report Phase

[ ✓ ] - Preliminary Design (Schematic) Phase

[ ✓ ] - Final Design Phase

[ ✓ ] - Construction Documents and Bidding Phase

[ ✓ ] - Architect of Record for Construction Phase

- A. Upon completion of any phase, Consultant shall not proceed with work on the next phase, if any, until authorized in writing by City to proceed therewith.
- B. Such services shall include all usual and customary professional engineering and architectural services and the furnishing (directly or through its professional subconsultants and subcontractors) of customary and usual engineering (including civil, structural, mechanical, and electrical engineering) and other services including design, environmental, and planning. Consultant shall also provide any landscape architecture, surveying, and geotechnical services incidental to its work on the Project.
- C. In performing the professional services, Consultant shall complete the work items described generally in Schedule 1 – "Scope of Services" and the items identified in Section 2 of this Agreement which are applicable to each phase for which Consultant is to render professional services.
- D. Professional engineering and architectural services (whether furnished directly or through a professional subconsultant or subcontractor) shall be performed under the direction and supervision of a registered architect and/or engineer in good standing and duly licensed to practice in the State of Colorado. Reproductions of final drawings for construction produced

under this Agreement shall be the same as at least one record set which shall be furnished to City and which shall be signed by and bear the seal of such registered engineer and/or architect.

- E. Any engineering and architectural services provided under this Agreement shall be performed under the direction and supervision of registered/licensed engineer and/or architect in the State of Colorado.

## **2. CONSULTANT'S RESPONSIBILITIES**

### **2.1. Study and Report Phase**

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

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

### **2.2. Preliminary Design (Schematic) Phase**

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

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

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

### 2.3. Final Design Phase

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

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

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

## 2.4. Construction Documents and Bidding Phases

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

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

## 2.5. Construction Phase

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

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



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

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

## 2.6. Additional Responsibilities

This section applies to all phases of Consultant's work:

- A. Consultant shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all of Consultant's work, including that performed by Consultant's subconsultants and subcontractors, and including designs, Drawings, Specifications, reports, and other services, irrespective of City's approval or acquiescence to same. Consultant shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its work.
- B. Consultant shall be responsible, in accordance with applicable law, to City for all loss or damage to City caused by Consultant's negligent act or omission; except that Consultant hereby irrevocably waives and excuses City and its attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute.
- C. Consultant's professional responsibility shall comply with the standard of care defined in Section 2.3D above.
- D. Consultant shall be completely responsible for the safety of Consultant's employees in the execution of work under this Agreement, shall provide all necessary safety equipment for said employees, and shall hold harmless and indemnify and defend City from any and all claims, suits, loss, or injury to Consultant's employees.
- E. Consultant acknowledges that, due to the nature of engineering and related professional services and the impact of same on the Project, the City 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 Consultant has selected and intends to employ or assign the key personnel and consultants identified in Schedule 4 - "Identification of Personnel, Subcontractors, and Task Responsibility", attached hereto for the Project assignments and areas of responsibility stated therein. Within 10 days of execution of this Agreement, City shall have the right to object in writing to employment on the Project of any such key person, consultant, or assignment of principal responsibility, in which case Consultant will employ alternate personnel for such function or reassign such responsibility to another to whom City has no reasonable objection. Thereafter, Consultant shall not assign or reassign Project work to any person to whom City has reasonable objection.

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

### 3. CITY'S RESPONSIBILITIES

City shall:

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

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

#### **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 \$129,406.00 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 professional standards defined in Section 2.3D above, 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, Public Works, Attn: Andrew Hayes, Director, 211 E. D St., Pueblo, CO, 81003; or to the Consultant, Short Elliott Hendrickson, Incorporated, Attn: Jimmie Hayson, Principal, 503 N. Main Street, Suite 225, Pueblo, CO, 81003. 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 23-046 Design of Future Wastewater Pretreatment Building 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. INSURANCE

### 9.1. 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.

### 9.2. 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 acceptable to City.

## **10. ACCESSIBILITY**

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

## **11. IMMIGRATION REFORM AND CONTROL ACT OF 1986**

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

## **12. 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.

## **13. SCHEDULES**

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

- Schedule 1 - "Scope of Services" consisting of 3 pages.
- Schedule 2 - "Fee Schedule" consisting of 1 page.
- Schedule 3 - "Work Schedule" consisting of 1 page.
- Schedule 4 - "Identification of Personnel, Subcontractors, and Task Responsibility" consisting of 6 pages.

## 14. ELECTRONIC SIGNATURE

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

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

SHORT ELLIOTT HENDRICKSON, INCORPORATED

By \_\_\_\_\_  
Naomi Hedden, Director of Purchasing

By \_\_\_\_\_  
James Hayson, Principal-In-Charge

Attest \_\_\_\_\_  
Marisa Stoller, City Clerk

[SEAL]

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

\_\_\_\_\_  
Alexandria Romero, Finance Director

APPROVED AS TO FORM

\_\_\_\_\_  
Dan Kogovsek, City Attorney

Attachments: Schedule 1 - Scope of Services  
Schedule 2 - Fee Schedule  
Schedule 3 - Project Schedule  
Schedule 4 - Identification of Personnel, Subcontractors, and Task Responsibility  
Additional Information

## SCHEDULE 1

### Scope of Work

Excerpt from Request for Proposal 23-046 dated April 11, 2023, Section 3

#### 3.3. Scope of Service

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

A. Preliminary Design (Schematic) Phase.

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

B. Final Design Phase

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

C. Construction Documents for Bidding

1. If the project is determined to continue after Final Design Phase, Consultant shall prepare the Construction Documents including plans and specifications for Bidding
2. The final design must be stamped and shall be utilized for bidding, permitting, and construction of all renovation/remodel activities
3. Submit plans to the City and Pueblo Regional Building Department for plan review and

- perform all required revisions to construction documents based on each reviewing agency and department comments
  - 4. Coordinate preparation of bid documents with Department of Public Works and Purchasing Department
  - 5. Assist City departments with any necessary meetings, addenda, etc.
  - 6. Digital project files shall be provided in both PDF and native formats (AutoCAD, Word, Excel, etc) prior to release of final payment
- D. Bidding Phase
- 1. If the project is determined to continue after Construction Documents for Bidding, Consultant shall assist the City as needed during the bidding phase
  - 2. The City will develop bidding materials including the Invitation to Bid documents, instructions to bidders, other necessary forms, and supplements required by the City as necessary to ensure that prospective bidders are fully informed regarding the construction and materials requirements
  - 3. Participate in a pre-bid meeting and walkthrough on site with interested contractors; interpret and clarify contract documents for bidders
  - 4. During the bidding period, the selected Consultant will assist the City with requests for information from bidders and coordinate with the City for responses and required modifications
  - 5. Note: Any approved modifications to the bidding documents will be issued by Addendum by the City.
- E. Architect of Record for Construction
- 1. Provide all customary services for Post Construction Award Services (PCAS) during construction
  - 2. Attend Pre-Construction Meeting with Contractor and Department of Public Works
  - 3. Respond to requests for information from Contractor, review Contractor submittals, and review Contractor applications for payment
  - 4. Review and approval of submittal and shop drawings
  - 5. The City does not expect the scope of the construction to warrant a continuous on-site presence; however, the selected firm should plan a minimum of weekly project progress meetings with the City and Contractor. Attendance at the weekly construction meetings may periodically be held virtual; however, in-person attendance will be required upon request.

6. Additional meetings and/or site visits shall be requested by the Department of Public Works or Contractor on an as needed basis to review work progress
7. For each meeting, generate a punch-list and certify that all work is being completed in accordance with contract documents
8. Verify as-built drawings at end of the project and notate all approved field changes. As-built documents must be electronically updated in AutoCAD/Revit by the Consultant.
9. Final as-built drawings shall be issued to the City for use on future projects subject to release of liability

## SCHEDULE 2

### Fee Schedule

Excerpt from Consultant Proposal submitted May 3, 2023, pages 19-20

The attached information includes a summary of our hourly rates to complete the work of this project, as well as the Pricing Proposal that includes a grand total proposed “not to exceed” amount for the project.

## SEH HOURLY BILLABLE RATES – 2023

| CLASSIFICATION - OFFICE STAFF   | BILLABLE RATE <sup>(1)</sup> | CLASSIFICATION - FIELD STAFF         | BILLABLE RATE <sup>(1)</sup> |
|---------------------------------|------------------------------|--------------------------------------|------------------------------|
| Principal                       | \$185 - \$320                | Professional Land Surveyor           | \$125 - \$190                |
| Project Manager                 | \$150 - \$280                | Lead Resident Project Representative | \$105 - \$185                |
| Senior Project Specialist       | \$155 - \$260                | Senior Project Representative        | \$105 - \$160                |
| Project Specialist              | \$110 - \$205                | Project Representative               | \$85 - \$145                 |
| Senior Professional Engineer I  | \$130 - \$210                | Survey Crew Chief                    | \$95 - \$160                 |
| Senior Professional Engineer II | \$155 - \$265                | Survey Instrument Operator           | \$65 - \$115                 |
| Professional Engineer           | \$115 - \$195                |                                      |                              |
| Graduate Engineer               | \$95 - \$160                 |                                      |                              |
| Senior Architect                | \$135 - \$250                |                                      |                              |
| Architect                       | \$115 - \$180                |                                      |                              |
| Graduate Architect              | \$95 - \$130                 |                                      |                              |
| Senior Landscape Architect      | \$130 - \$200                |                                      |                              |
| Landscape Architect             | \$105 - \$145                |                                      |                              |
| Graduate Landscape Architect    | \$95 - \$120                 |                                      |                              |
| Senior Scientist                | \$145 - \$205                |                                      |                              |
| Scientist                       | \$100 - \$160                |                                      |                              |
| Graduate Scientist              | \$90 - \$125                 |                                      |                              |
| Senior Planner                  | \$145 - \$250                |                                      |                              |
| Planner                         | \$115 - \$180                |                                      |                              |
| Graduate Planner                | \$100 - \$140                |                                      |                              |
| Senior GIS Analyst              | \$120 - \$205                |                                      |                              |
| GIS Analyst                     | \$110 - \$175                |                                      |                              |
| Project Design Leader           | \$135 - \$215                |                                      |                              |
| Lead Technician                 | \$120 - \$200                |                                      |                              |
| Senior Technician               | \$100 - \$160                |                                      |                              |
| Technician                      | \$70 - \$135                 |                                      |                              |
| Graphic Designer                | \$100 - \$170                |                                      |                              |
| Administrative Professional     | \$60 - \$150                 |                                      |                              |

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

Effective: January 1, 2023

Expires: December 31, 2023

# PRICING PROPOSAL

## COST BY PHASE IN SCOPE OF WORK WITH TOTAL NOT TO EXCEED

| LINE ITEM | DESCRIPTION                          | QUANTITY | UNIT OF MEASURE | UNIT COST | TOTAL    |
|-----------|--------------------------------------|----------|-----------------|-----------|----------|
| 1         | Preliminary Design (Schematic) Phase | 1        | LS              | N/A       | \$20,796 |
| 2         | Final Design Phase                   | 1        | LS              | N/A       | \$31,902 |
| 3         | Construction Documents for Bidding   | 1        | LS              | N/A       | \$48,404 |
| 4         | Bidding Phase                        | 1        | LS              | N/A       | \$6,138  |
| 5         | Architect of Record for Construction | 1        | LS              | N/A       | \$22,166 |
| TOTAL     |                                      |          |                 | \$129,406 |          |

In our building renovation proposal, we would like to express our understanding that the building and site will be provided to us free of any environmental hazards. We appreciate the City of Pueblo's commitment to conducting thorough environmental assessments, which will address potential concerns such as lead-based paint, asbestos, or sewage issues.

At SEH, we are happy to collaborate with the City of Pueblo, offering our support and expertise in environmental assessments as needed. However, we would like to emphasize that the primary responsibility for identifying and addressing these environmental hazards will be carried by the City. By working together, we aim to create a safe and sustainable environment that benefits everyone involved in the renovation process.



SCHEDULE 3

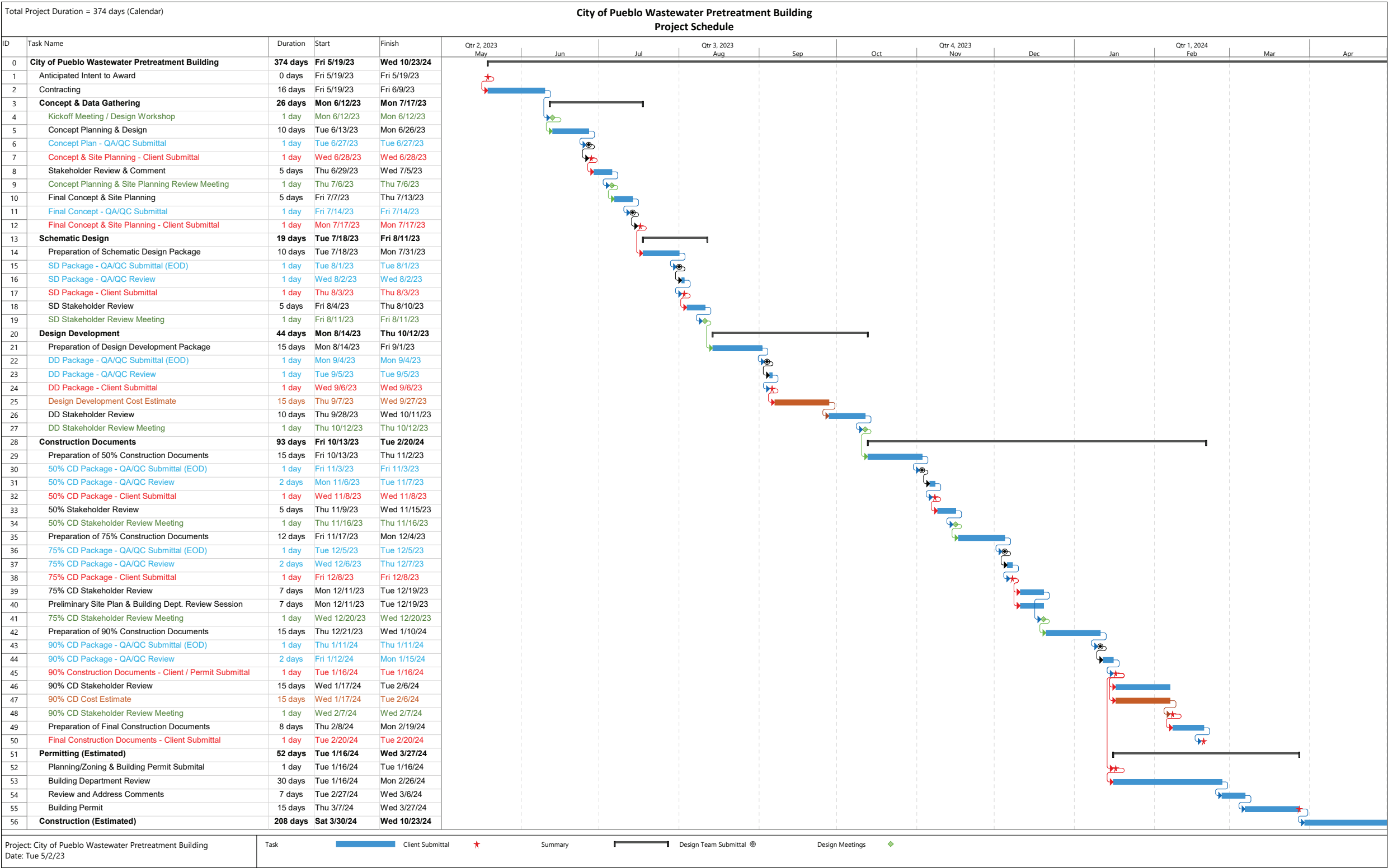
Work Schedule

Excerpt from Consultant Proposal submitted May 3, 2023, page 18

SEH is confident in our ability to meet your preferred schedule based on our extensive experience with building renovation projects. Our proposed team is available to initiate the work tasks immediately upon execution of the contract. The schedule at right details time devoted to each task.

The SEH Western Region has a backlog for many disciplines over the next 12 months that equals approximately 50 percent of the total capacity of our current regional staff.

The SEH team chosen for your project has the capacity and capability necessary to complete the design and construction documents for the design of the Future Wastewater Pretreatment Building project within the schedule presented.



## SCHEDULE 4

Identification of Personnel, Subcontractors, and Task Responsibility  
Excerpt from Consultant Proposal submitted May 3, 2023, pages 3 -8

The SEH team is eager to work with the City of Pueblo on this exciting renovation project. Working alongside Cumming Management Group, Inc., our team provides extensive experience in the design of renovation projects similar to the Wastewater Headworks Building, and we will leverage this experience to deliver efficient, cost-effective results on your behalf.

### SHORT ELLIOTT HENDRICKSON INC.

#### PRIME CONSULTANT

*Project Management, Architecture, Quality Assurance/Control, Civil Engineering, Structural Engineering, Mechanical Engineering, and Electrical Engineering*



SEH is an employee-owned engineering, architectural, environmental, and planning company that helps government, industrial, and commercial clients find answers to complex challenges.

Our 800-plus employee-owners share a core purpose: Building a Better World for All of Us®. This approach reflects a companywide commitment to improving the quality of life by designing safer, more sustainable infrastructure for government and helping industrial and commercial clients achieve their business goals.

Headquartered in St. Paul, Minnesota, and with 32 offices in 11 states, you'll find evidence of our work throughout the United States.

**Primary Contact:**

**Chad Harris,**

**Project Manager**



### CUMMING MANAGEMENT GROUP, INC.

#### SUBCONSULTANT

*Cost Estimating*



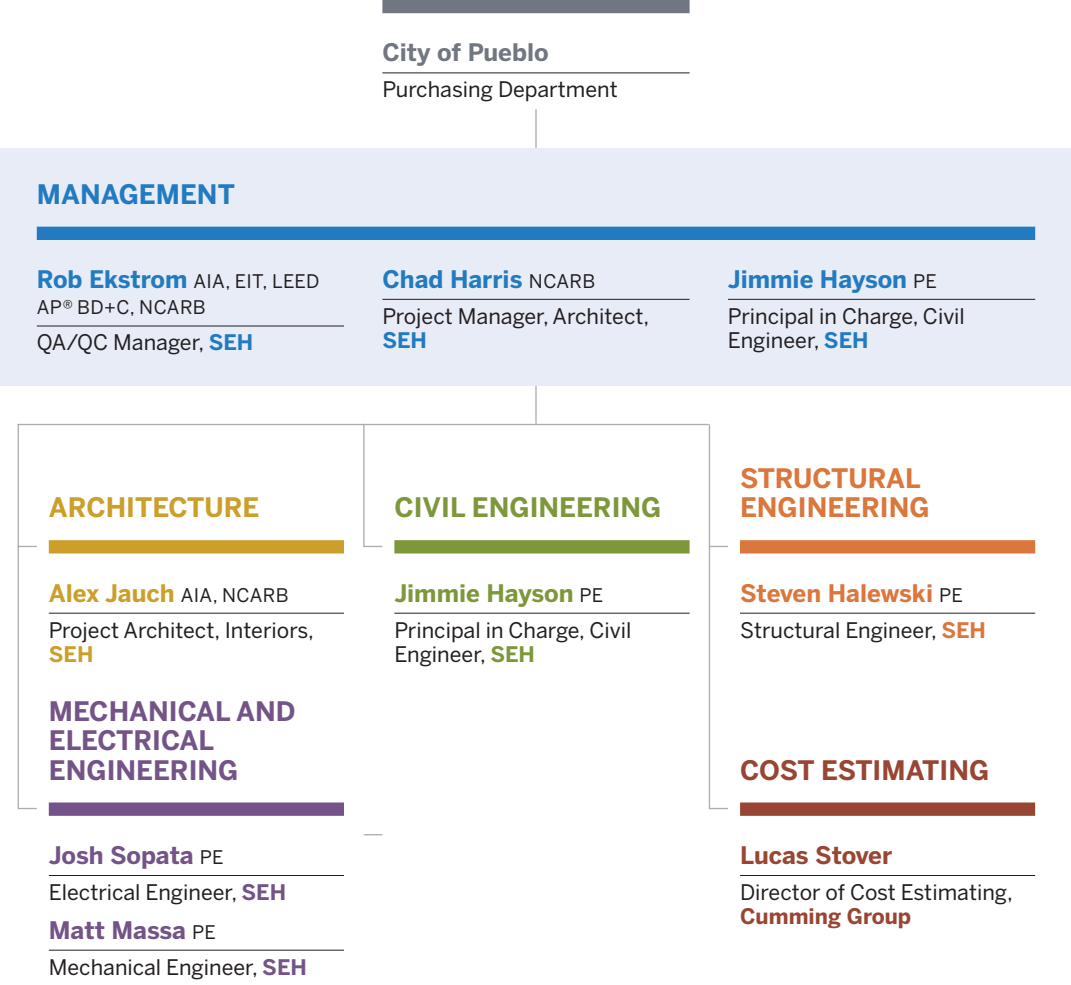
Cumming Management Group, Inc. (Cumming) is a privately held corporation founded in 1996. Cumming is a leader in providing project consulting services to the A/E/C industry. Cumming has more than 1,500 team members within 50+ office locations, which provide services to clients around the world. For this project, Cumming will serve as cost consultant. Cumming's cost group is one of the largest providers of cost estimating and management services in the United States, including a skilled team of in-house MEP cost specialists. Cumming works on more than 400 estimates each month, delivering unparalleled experience in this discipline. Core cost management services include budgeting, milestone cost estimating, value analysis, cost validation, peer review, and change order evaluation.

Cumming is a local firm with more than 20 years of experience in Colorado. Cumming has close ties to the local market, and therefore are well informed of current market conditions and how they affect cost. Cumming has completed more than 2,100 projects for city-, county-, and state-operated facilities. These projects have involved parks, city halls, civic centers, police/fire facilities, libraries, offices, community centers, animal shelters, transit centers, operations and maintenance facilities, and public works, among others.

# KEY INDIVIDUALS

This section describes the professional qualifications, availability, and experience of the team members selected for the City of Pueblo’s Wastewater Pretreatment Building Design Project. Led by Chad Harris out of our Pueblo office, our team is composed of architects, engineers, and specialty consultants who are available and committed over the lifetime of this project. The individuals shown below are key personnel for the project.

## PROJECT ORGANIZATIONAL CHART



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

## CHAD HARRIS NCARB

PROJECT MANAGER, ARCHITECT | **SEH**

**Located in Pueblo, Chad will serve as project manager and main point of contact for the City. He will guide the activities of the project team, monitor the schedule and budget, and oversee the quality of all project deliverables.** Chad is an architect and designer with specialized experience in designing high-end custom homes, remodels, office interiors, and multi-family projects, as well as overseeing the development of innovative, bio-tech composite construction materials. Chad works with clients to develop design and construction documents, lead efforts as project manager, and integrate sustainable design elements into their building projects.

### EXPERIENCE

- T'iis Názbas Community School (Bureau of Indian Affairs Central Contracting Office) – Teec Nos Pos, AZ
- 27th St PM Assistance (Roaring Fork Transportation Authority) – Glenwood Springs, CO
- Fire Station Phase II (Summit Fire and EMS) – Frisco, CO



**18**  
YEARS OF  
EXPERIENCE



### EDUCATION

Master of Architecture  
University of New  
Mexico-Albuquerque

Bachelor of Arts  
Architecture  
University of New  
Mexico-Albuquerque



### REGISTRATIONS/CERTIFICATIONS

Architect in CO (#ARC.00405215), FL



### AVAILABILITY

60%

## ALEX JAUCH AIA, NCARB

PROJECT ARCHITECT, INTERIORS | **SEH**

**Alex will work with Chad to lead architectural and interior design for the facility.** Alex is an architect who has a Master of Architecture degree from the University of Colorado-Denver. Alex has worked in architecture, interior and landscape design. He has experience in completing space programming and conceptual design, construction documentation, cost estimating, facility assessments, and construction administration, ranging from large commercial office and transportation projects to smaller tenant-finish upgrades.

### EXPERIENCE

- Department of Social Services Office Renovation (Pueblo County DSS) – Pueblo, CO
- 711 Building Renovation (Regional Transportation District) – Denver, CO
- Broomfield WWTP Lab/Admin Expansion – City and County of Broomfield, CO
- Justice Center DA Office Addition (Boulder County Building Services Division) – Boulder, CO
- 1190 Transit Campus Expansion (Mountain Metro Transit) – Colorado Springs, CO



**11**  
YEARS OF  
EXPERIENCE



### EDUCATION

Master of Architecture  
University of Colorado-Denver

Bachelor of Science  
Architectural Studies (Emphasis:  
Interior Design)  
University of Missouri-Columbia



### REGISTRATIONS/CERTIFICATIONS

Architect in CO (#00406223), MO,  
MT, WY



### AVAILABILITY

55%

## ROB EKSTROM AIA, EIT, LEED AP® BD+C, NCARB

QA/QC MANAGER | SEH

**Rob's role as QA/QC Manager will include providing technical assistance and independent document review, as well implementing our QA/QC program.** Rob is the Director of Architecture for the West Region, Principal, project manager, and senior architect with extensive experience in architectural design and structural engineering. He has project experience on a wide variety of building types, including criminal justice, municipal, federal, education, housing, and commercial/retail facilities. Rob's project responsibilities have included client service, project management, contracts, BIM management, programming and facilitation, all phases of design, bidding and negotiation, and construction administration services.

### EXPERIENCE

- Department of Social Services Office Renovation (Pueblo County DSS) – Pueblo, CO
- Justice Center DA Office Addition (Boulder County Building Services Division) – Boulder, CO
- CYS Services Administration Facility (US Army - Fort McCoy) – Fort McCoy, WI
- Civic Center Station (Regional Transportation District) – Denver, CO



25  
YEARS OF  
EXPERIENCE



### EDUCATION

Bachelor of Science  
Civil/Structural Engineering  
University of Colorado-Denver

Bachelor of Architecture  
Bachelor of Science, Environmental  
Design  
North Dakota State University-Fargo



### REGISTRATIONS/CERTIFICATIONS

Architect in CO (#00400982), AZ,  
CA, FL, KS, MI, NE, NV, OK, OR, TX, UT



### AVAILABILITY

20%

## JIMMIE HAYSON PE

PRINCIPAL IN CHARGE, CIVIL ENGINEER | SEH

**Jimmie will provide general project quality assurance and help ensure adequate SEH resources are available as the Principal assigned to the project. He will also lead any civil engineering design for this effort.** Jimmie is a civil engineer with extensive experience providing project management, design, planning, construction administration, and inspection for various civil and municipal engineering projects. His project experience includes street and utility reconstruction, storm drainage improvements, wastewater improvements, master plans, residential and commercial site development, residential and commercial foundation systems, storm drainage improvements, and individual sewage disposal systems for residential and commercial sites.

### EXPERIENCE

- Department of Social Services Office Renovation (Pueblo County DSS) – Pueblo, CO
- Dennis Maes Judicial Building – Pueblo County, CO
- 1190 Transit Campus Expansion (Mountain Metro Transit) – Colorado Springs, CO
- Schriever AFB Dental Clinic – Colorado Springs, CO
- Oak Grove Administrative Building Renovation (Bureau of Land Management) – Parashant - Grand Canyon National Monument, AZ



27  
YEARS OF  
EXPERIENCE



### EDUCATION

Bachelor of Science (Cum Laude)  
Civil Engineering Technology  
University of Southern  
Colorado-Pueblo

Associate of Science (Summa  
Cum Laude)  
Otero Junior College - La Junta, CO



### REGISTRATIONS/CERTIFICATIONS

Professional Engineer in CO  
(#37853), AZ, ID, NM, NV, SD, TX, UT,  
WI, WY



### AVAILABILITY

30%

## STEVEN HALEWSKI PE

STRUCTURAL ENGINEER | SEH

**Steven will lead structural design for this project.** Steven is a structural engineer with experience in the commercial, residential, and defense industries. He specializes in vertical structure design, including municipal, commercial, and residential buildings; deep and shallow foundation systems; oil and gas infrastructure; and existing facility remodels that accommodate architectural, mechanical, and construction requirements. Steven has also designed custom hydraulic and site work structures such as manholes, underground vaults, multiple pipe junction boxes, stilling basins, retaining walls, and custom headwalls and wingwalls.

### EXPERIENCE

- Department of Social Services Office Renovation (Pueblo County DSS) – Pueblo, CO
- 1190 Transit Campus Expansion (Mountain Metro Transit) – Colorado Springs, CO
- Denver Fire Department Restroom and Kitchen Renovations (City and County of Denver - Facilities) – Denver, CO
- Facilities Assessment – La Plata County, CO
- Facility Assessments and Energy Audit (Indian Health Services) – Multiple Cities, TN



14  
YEARS OF  
EXPERIENCE



### EDUCATION

Bachelor of Science  
Civil Engineering Technology  
Rochester Institute of Technology -  
Rochester, NY



### REGISTRATIONS/CERTIFICATIONS

Professional Engineer in CO  
(#0055242), AZ, FL, MT, OR, SD



### AVAILABILITY

40%

## JOSH SOPATA PE

ELECTRICAL ENGINEER | SEH

**Josh will provide electrical engineering design services, including power, lighting, and data systems.** Josh is a senior electrical engineer experienced in power distribution and lighting design. While with SEH, Josh has been involved with many different types of commercial, residential, and multi-family design projects, including but not limited to fire stations, airport hangers, apartment complexes, visitor centers, and dental clinics. Josh also has experience conducting facility condition assessments all over the country working with our clients. Prior to joining SEH, Josh worked in the light rail transportation industry and was a service member in the Pennsylvania Army National Guard.

### EXPERIENCE

- Public Works Service Center (City and County of Broomfield) – Broomfield, CO
- Courthouse Conceptual Design (Conejos County) – Conejos, CO
- Mountain Express and GVRTA Bus Facility Needs Assessment (The Mountain Express) – Crested Butte, CO
- Facility Condition Assessment Program (FCAP) (City and County of Denver - Facilities) – Denver, CO
- Dripping Springs Natural Area Visitor Center Remodel (Bureau of Land Management) – Las Cruces, NM



11  
YEARS OF  
EXPERIENCE



### EDUCATION

Bachelor of Science  
Electro-Mechanical Engineering  
Technology  
Pennsylvania State University-  
State College



### REGISTRATIONS/CERTIFICATIONS

Professional Engineer in CO  
(#0057833), MT, NM, NV, PA



### AVAILABILITY

40%



## MATT MASSA PE

MECHANICAL ENGINEER | SEH

**Matt will provide mechanical engineering design services, including HVAC, plumbing, and fire protection systems.** Matt is a mechanical engineering lead and project manager experienced in engineering design and project management. He has worked in many industries, including commercial and residential construction, midstream refining, pipelines, transportation, and heavy machinery. Matt has also worked in three metropolitan areas, in both the public and private sector, and represented both the client and the consultant.

### EXPERIENCE

- Public Works Service Center (City and County of Broomfield) – Broomfield, CO
- Partners Pt. Admin Building (Bureau of Land Management) – Lake Havasu, AZ
- Mountain Express and GVRTA Bus Facility Needs Assessment (The Mountain Express) – Crested Butte, CO
- Hyatt House Hotel (Depot Square Apartments, LLC) – Kansas City, MO
- Facility Condition Assessment Program (FCAP) (City and County of Denver - Facilities) – Denver, CO



15  
YEARS OF  
EXPERIENCE



### EDUCATION

Bachelor of Science  
Mechanical Engineering  
Carnegie Mellon University -  
Pittsburgh, PA



### REGISTRATIONS/CERTIFICATIONS

Professional Engineer in CO  
(#0052718), AZ, CA, FL, MT, NM, NV,  
NY, UT, WY



### AVAILABILITY

30%

## LUCAS STOVER

DIRECTOR OF COST ESTIMATING | CUMMING GROUP

**Lucas will provide cost estimates for this project.** Lucas is a highly skilled cost management professional who has performed estimating services across multiple sectors. He provides quantity take-offs, specification review, change order estimating, value engineering, and project reconciliation. Lucas has managed teams for programs ranging from \$50k to \$2B through all project phases.

### EXPERIENCE

- New Municipal Complex – Pueblo, CO
- 1190 Transit Campus Expansion (Mountain Metro Transit) – Colorado Springs, CO
- Employee Housing Feasibility Study (RFTA) – Carbondale, CO
- Plum Creek Water Purification Facility Expansion – Castle Rock, CO
- Multiple Projects for On-Call 2015 Contract (Denver Water) – Denver, CO
- South System Planning Program Phased Improvements (Denver Water) – Denver, CO
- New Water Quality Lab/Office Site Concepts Study – Fort Collins, CO



9  
YEARS OF  
EXPERIENCE



### EDUCATION

Bachelor of Science  
Civil Engineering  
California Polytechnic State  
University  
San Luis Obispo



### AVAILABILITY

40%

*To be added by Purchasing*

**ADDITIONAL INFORMATION FOR AGREEMENT**

Certificate of Good Standing

Colorado PERA Questionnaire

Insurance Certificates





**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 26, 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

**SUBJECT:** AN ORDINANCE BUDGETING AND APPROPRIATING AN AMOUNT OF \$120,000 FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND TO THE PROFESSIONAL SERVICES ACCOUNT OF THE LAW DEPARTMENT AND APPROVING COMPENSATION FOR SPECIAL COUNSEL ON AN AS NEEDED BASIS

**SUMMARY:**

The proposed Ordinance budgets and appropriates an amount of \$120,000 from the unappropriated fund balance of the General Fund to the Professional Services Account of the Law Department and approves compensation for special counsel on an as needed basis.

**PREVIOUS COUNCIL ACTION:**

Ordinance 10348 (11/28/2022) adopted the budget for fiscal year 2023.

**BACKGROUND:**

In April of 2023, the City Attorney resigned. In July of 2023, the Law Department will have a new vacancy in the Assistant City Attorney II position due to resignation and other employment. Although the department will proceed with addressing staffing issues, it will take a period of time to hire and train as necessary. In the interim, the department may need to retain special counsel on an as needed basis. Although the City Charter vests authority in the City Attorney to retain special counsel, compensation must be approved by City Council. City Charter at §6-7. This Ordinance will budget \$120,000 to the department for such purposes. The amount is roughly approximate to 5 months of salary with respect to the two position.

**FINANCIAL IMPLICATIONS:**

The Unappropriated General Fund Balance would be reduced by \$120,000. If unexpended and unencumbered at the end of fiscal year 2023, the appropriated

amounts will lapse and remit to the General Fund.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable to this Ordinance.

**STAKEHOLDER PROCESS:**

Not applicable to this Ordinance.

**ALTERNATIVES:**

Not passing the Ordinance. In which case, the Law Department will have less flexibility in addressing matters as they arise.

**RECOMMENDATION:**

Approval of the Ordinance.

**ATTACHMENTS:**

None

ORDINANCE NO.

AN ORDINANCE BUDGETING AND APPROPRIATING AN AMOUNT OF \$120,000 FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND TO THE PROFESSIONAL SERVICES ACCOUNT OF THE LAW DEPARTMENT AND APPROVING COMPENSATION FOR SPECIAL COUNSEL ON AN AS NEEDED BASIS

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

SECTION 1.

Funds in the amount of \$120,000 are hereby budgeted and appropriated from the unappropriated fund balance of the General Fund to the Professional Services account of the Law Department.

SECTION 2.

Pursuant to §6-7, City Charter, City Council approves compensation for special counsel to be paid from the Professional Services account of the Law Department on an as needed basis.

SECTION 3.

The officers and staff of the City are authorized and directed to perform any and all acts consistent with the intent of this Ordinance to effectuate the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

**Action by City Council:**

Introduced and initial adoption of Ordinance by City Council on \_\_\_\_\_.

Final adoption of Ordinance by City Council on \_\_\_\_\_.

\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☐ Approved on \_\_\_\_\_.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Mayor

**Action by City Council After Disapproval by the Mayor:**

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of \_\_\_\_\_, on \_\_\_\_\_
- ☐ Council action on \_\_\_\_\_ failed to override the Mayor's veto.

\_\_\_\_\_  
President of City Council

ATTEST

\_\_\_\_\_  
City Clerk



**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 26, 2023

**TO:** President Heather Graham and Members of City Council

**CC:** Mayor Nicholas A. Gradisar

**VIA:** Marisa Stoller, City Clerk

**FROM:** Laura Solano, Chief of Staff

**SUBJECT:** AN ORDINANCE APPROVING AND ACCEPTING A GRANT AGREEMENT WITH COLORADO BLUEPRINT TO END HUNGER AND THEIR FISCAL SPONSOR, THE TRAILHEAD INSTITUTE, FOR A GRANT AWARD IN THE AMOUNT OF \$53,625.00 ON BEHALF OF THE PUEBLO FOOD PROJECT, RATIFYING THE PRIOR SIGNATURE OF THE MAYOR TO SAID GRANT AGREEMENT, CREATING PROJECT NO. CI2323, AND BUDGETING AND APPROPRIATING \$53,625.00 INTO PROJECT NO. CI2323

**SUMMARY:**

Attached is an Ordinance approving and accepting a grant in the amount of \$53,625.00 from Colorado Blueprint to End Hunger to provide funds to continue community food pantry work by the Pueblo Food Project. This Ordinance creates Project No. CI2323 and budgets and appropriates the grant funds to CI2323. Due to time restrictions associated with this grant, Mayor Gradisar signed the Grant Agreement on June 7, 2023. This Ordinance approves the Grant Agreement and ratifies the Mayor's signature thereof.

**PREVIOUS COUNCIL ACTION:**

The City Council has accepted other grants from the Colorado Blueprint to End Hunger for the community food pantry.

**BACKGROUND:**

The Pueblo Food Project has received several previous grants from the Colorado Blueprint to End Hunger Food Pantry Assistance Program, totaling over \$200,000.00 since 2020. This particular award will focus on buying protein products for the community food pantry.

**FINANCIAL IMPLICATIONS:**

There are no matching funds required for this grant. Upon passage of the Ordinance, the City of Pueblo will receive the entire \$53,625.00 on behalf of the Pueblo Food Project. The total grant budget for Project No. CI2323 will become \$53,625.00.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable to this Ordinance.

**STAKEHOLDER PROCESS:**

Not applicable to this Ordinance.

**ALTERNATIVES:**

If the proposed Ordinance is not approved, the Pueblo Food Project will not receive the grant funds.

**RECOMMENDATION:**

Approval of the Ordinance.

**ATTACHMENTS:**

1. 06-26-23 PFP Trailhead Grant Blueprint Award\_039 (1)

ORDINANCE NO.

AN ORDINANCE APPROVING AND ACCEPTING A GRANT AGREEMENT WITH COLORADO BLUEPRINT TO END HUNGER AND THEIR FISCAL SPONSOR, THE TRAILHEAD INSTITUTE, FOR A GRANT AWARD IN THE AMOUNT OF \$53,625.00 ON BEHALF OF THE PUEBLO FOOD PROJECT, RATIFYING THE PRIOR SIGNATURE OF THE MAYOR TO SAID GRANT AGREEMENT, CREATING PROJECT NO. CI2323, AND BUDGETING AND APPROPRIATING \$53,625.00 INTO PROJECT NO. CI2323

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

SECTION 1.

The Grant Agreement for Food Pantry Assistance dated May 24, 2023 ("Grant Agreement") between the City of Pueblo, a Municipal Corporation, for its Pueblo Food Project, and the Colorado Blueprint to End Hunger, administered by the Trailhead Institute, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor's signature of the Grant Agreement is hereby authorized and ratified on behalf of the City of Pueblo, and the City Clerk is authorized to affix the seal of the City thereto and attest the same.

SECTION 3.

Project No. CI2323 is hereby created.

SECTION 4.

Funds in the amount of \$53,625.00 shall be accepted pursuant to the Grant Agreement and budgeted and appropriated to Project No. CI2323.

SECTION 5.

The officers and staff of the City are hereby authorized to perform any and all acts consistent with this Ordinance and the attached Grant Agreement to effectuate 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 \_\_\_\_\_.

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:

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\_\_\_\_\_  
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



May 24, 2023

Megan Moore  
1 City Hall Pl  
Pueblo, CO

Re: FOOD PANTRY ASSISTANCE GRANT PROGRAM

The Colorado Blueprint to End Hunger, administered by the Trailhead Institute (“**Trailhead**”) is pleased to award City of Pueblo, an eligible entity pursuant to C.R.S. 26-2-139, a grant for \$53,625, defined below, or in any amendments to the Award, for the purposes set forth in Paragraph 1, below. This grant is being made in response to and in reliance upon the accuracy of statements made in your grant proposal dated May 22, 2023, and any subsequent submissions to Trailhead. By accepting this letter agreement, you agree to the following terms and conditions of the grant:

**1. Purpose of Grant and Restrictions.** The grant funds are restricted for the charitable purposes described in your grant proposal, attached as Schedule B and incorporated into this agreement by this reference, and must be used exclusively for those purposes. The grant may not be expended for any other purpose without Trailhead’s written approval. Further, all Food Pantry Assistance grant funds must be used by June 30, 2024, unless Trailhead agrees in writing to extend such term. Any unspent grant funds will be requested back from grantees and must be returned to the Colorado Department of Human Services at the end of the grant period. Fund allocations are described in Schedule A. If Trailhead does not agree to such term extension, any unexpended or uncommitted grant funds must be repaid to Trailhead. You acknowledge and agree that this grant is funded with State of Colorado funds that then sub-awarded to Trailhead, and agree to comply with the terms and conditions of C.R.S. 26-2- 139, attached as Appendix 1 and incorporated into this Agreement by this reference.

**2. Disbursement of Grant.** Upon our receipt of an executed copy of this agreement, we will remit the 85 percent of the grant payment to your organization, and withhold the remaining 15 percent of the grant payment until the progress report is made as provided in Section 3 of this agreement.

**3. Grant Reporting.** You will furnish us with a mid-term progress report and final report, along with google forms for each expense, and copies of your food purchase receipts for all funds expended in each time period. The reports will cover the manner in which grant funds were spent and your progress made in accomplishing the purposes of the grant. The CO Blueprint to End Hunger will provide you with all instructions as well as mid and final report templates, a google expense form to track spending, and the community survey. All of the

mentioned documents will also be available in the [Grantee share folder](#) to access at any time. You will also furnish us with such other reports and information relating to the grant as we may request from time to time, including, without limitation, financial statements and other reports concerning your organization. We recommend your organization create its own internal system for tracking expenses related to the grant to ensure all the dollars are spent correctly.

**4. Inspections and Grant Oversight; Books and Records.** We may, at our own expense, monitor and conduct an evaluation of the operations, programs or projects funded by the grant, which may include site visits by our representatives and discussions with your organization's personnel. Further, you will keep complete and accurate books and records of the funds received and expenses incurred under this grant for at least four years after your completion of use of the grant funds, and make such information available to us at reasonable times. We may, at our own expense and on reasonable notice, audit your books and records as they relate to the grant.

**5. Publicity.** Trailhead may include information regarding the grant, including the amount and purpose of the grant, your organization's logo or trademark or other information or materials about your organization and its activities, in any of its private or public reports. Trailhead may also refer to the grant in its press releases. You will not use Trailhead's logos or other trademarks without our prior review and written consent.

**6. Conflicts of Interest.** You agree not to engage in any business or activities, or maintain any relationship that conflicts in any way with the full performance of Trailhead under the Award. Such a conflict would only arise if any of your employees, officers, or agents were to offer or provide any tangible benefit to any employee of the State of Colorado, or any member of the employee's immediate family, related to the Award.

**7. Suspension or Termination of Grant.** The total amount of the grant, or any portion thereof, may be discontinued, modified or withheld at any time when, in our judgment, such action is necessary to comply with the requirements of any law or regulation affecting our responsibilities with respect to the grant. Further, we reserve the right to terminate this agreement and require you to return any unspent funds at our sole discretion, if (a) you violate any term or condition of this agreement, or (b) we believe you are no longer able to expend the grant funds as contemplated by this agreement and the grant proposal, or otherwise achieve the purposes of the grant. Finally, any part of the grant funds used in violation of this agreement will need to be repaid to us.

**8. Miscellaneous.** All references in this agreement to the term "grant" or "grant funds" refer to the original funds and any investment earnings thereon. This agreement will be governed in all respects by the laws of Colorado. You may not assign any rights or obligations under this agreement without our prior written consent. Subject to that, this agreement will be

binding upon our respective successors and assigns. This agreement is intended as the final and binding expression of our agreement relating to the grant and as the complete and exclusive statement of its terms. No amendment, supplement or waiver of this agreement will be effective unless made in writing and signed by an authorized representative of each of us. This agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which will be taken together and considered to be one instrument. A scanned or digital signature will be accepted and effective as an original or manual signature.

Sincerely,

TRAILHEAD INSTITUTE

---

Sarah Lampe, President & Executive Director

The undersigned, on behalf of City of Pueblo, hereby accepts and agrees to all of the terms and conditions of the grant as set forth above; acknowledge they have received and retained a copy of this agreement; and certify they are duly authorized to accept the grant on behalf of and to commit City of Pueblo to all of its terms and conditions.

City of Pueblo

DocuSigned by:

*Nicholas Gradisar*

A2941F3E30BA445...

Nicholas A. Gradisar, Mayor

**SCHEDULE A**

|                                    |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  |
|------------------------------------|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Food Pantry Assistance Grant Funds | \$53,625 | <p>Spend at least 50 percent of the supplemental FPAG awards by Aug. 30, 2023 and the entirety of the supplemental funding by June 30, 2024. If at least 50 percent of funding is not spent by Aug. 30, 2023, then the remainder of the award will be forfeited.</p> <p>Complete the mid-term report, submit expenses through Google Forms and via email by October 15, 2023. Complete the final report, submit final expenses through Google Forms and via email by July 15, 2024. All funds must be expended by June 30, 2024.</p> |  |
|------------------------------------|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

In addition to the contract requirements and the scope of work below, the contractor commits to the following:

- 1) Attend the grantee welcome webinar on May 30, 2023, from 2–4pm
- 2) Purchase Colorado agricultural products whenever possible.
- 3) Administer a community member survey (10 surveys per pantry) in September 2023.
- 4) Do not resell or apply fees for the purchased food.
- 5) Do not use this funding to purchase seeds or gift cards of any kind.
- 6) Do not use this funding to purchase food that will be made into prepared meals and served.
- 7) Track pounds of Colorado produce purchased with FPAG funds and track the number of unduplicated community members served each month.

## **SCHEDULE B**

### **Grant Proposal/Scope of Work**



## CONTRACT AMENDMENT #1

### SIGNATURE AND COVER PAGE

|                                                                                                                                  |                                                              |
|----------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|
| <b>State Agency</b><br>Colorado Department of Human Services<br>Office of Economic Security<br>Food & Energy Assistance Division | <b>Original Contract Number</b><br>23 IHGA 177493            |
| <b>Contractor</b><br>Trailhead Institute                                                                                         | <b>Amendment Contract Number</b><br>23 IHGA 182367           |
| <b>Current Contract Maximum Amount</b><br>Initial Term<br>State Fiscal Year 2023                               \$7,350,000.00    | <b>Contract Performance Beginning Date</b><br>August 8, 2022 |
| Total for All State Fiscal Years                               \$7,350,000.00                                                    | <b>Current Contract Expiration Date</b><br>June 30, 2023     |

### THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

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

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: center;"><b>CONTRACTOR</b><br/>Trailhead Institute</p><br><br><br><p>_____</p> <p style="text-align: center;">By: Sarah Lampe, President &amp; Executive Director</p><br><br><p>Date: _____</p>                                                                                                                                                                                                                                                                                          | <p style="text-align: center;"><b>STATE OF COLORADO</b><br/>Jared Polis, Governor<br/>Department of Human Services<br/>Michelle Barnes, Executive Director</p><br><br><br><p>_____</p> <p style="text-align: center;">By: Anne-Marie Braga, Deputy Executive Director-<br/>Community Partnerships</p><br><br><p>Date: _____</p> |
| <p style="text-align: center;">In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;"><b>STATE CONTROLLER</b><br/><b>Robert Jaros, CPA, MBA, JD</b></p><br><br><p style="text-align: center;">By: _____</p> <p style="text-align: center;">CDHS Controller Delegate: Andrea Eurich/Toni Williamson</p><br><br><p style="text-align: center;">Amendment Effective Date: _____</p> |                                                                                                                                                                                                                                                                                                                                 |

## 1. PARTIES

This Amendment (the “Amendment”) to the Original Contract shown on the Signature and Cover Page for this Amendment (the “Contract”) is entered into by and between the Contractor, and the State.

## 2. TERMINOLOGY

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Contract shall be construed and interpreted in accordance with the Contract.

## 3. AMENDMENT EFFECTIVE DATE AND TERM

### A. Amendment Effective Date

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Page for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date, and shall have no obligation to pay Contractor for any Work performed or expense incurred under this Amendment either before or after the Amendment term shown in §3.B of this Amendment.

### B. Amendment Term

The Parties’ respective performances under this Amendment and the changes to the Contract contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Page for this Amendment and shall terminate on the termination of the Contract.

## 4. PURPOSE

The Food Pantry Assistance Grant program (C.R.S. 26-2-139) is created in the Colorado Department of Human Services (CDHS). The purpose of the grant program is to aid Colorado food pantries and food banks in the purchase of foods that better meet the needs of their clientele, which has expanded significantly amid the ongoing public health emergency. CDHS is entering into this contract with Trailhead Institute to serve as the administrator for the solicitation, vetting, award, and monitoring of all grants related to the Food Pantry Assistance Grant Program. This modification adds additional funding and replaces Exhibit A with Exhibit A-1.

## 5. MODIFICATIONS

The Contract and all prior amendments thereto, if any, are modified as follows:

- A. The Contract Maximum Amount table on the Contract’s Signature and Cover Page is hereby deleted and replaced with the Current Contract Maximum Amount table shown on the Signature and Cover Page for this Amendment.
- B. Exhibit A Statement of Work Food Pantry Assistance Grant Program (HB 22-1364), is hereby deleted and replaced by Exhibit A-1 Statement of Work Food Pantry Assistance Grant Program (HB 22-1364) and incorporated herein by reference of this Amendment.

## 6. LIMITS OF EFFECT AND ORDER OF PRECEDENCE

This Amendment is incorporated by reference into the Contract, and the Contract and all prior amendments or other modifications to the Contract, if any, remain in full force and effect except as specifically modified in this Amendment. Except for the Special Provisions contained in the Contract, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Contract or any prior modification to the Contract, the provisions of this Amendment shall in all respects supersede, govern, and control. The provisions of this Amendment shall only supersede, govern, and control over the



Special Provisions contained in the Contract to the extent that this Amendment specifically modifies those Special Provisions.

## **Exhibit A-1 - Statement of Work, Food Pantry Assistance Grant Program (HB 22-1364)**

### **A. Background**

Trailhead Institute (“Contractor”) is the fiscal sponsor for The Colorado Blueprint to End Hunger (“Blueprint”) and worked with the Colorado Department of Human Services (“CDHS” or “the State”) on the Colorado Food Pantry Assistance Grant Program (June 2021-June 2022). Given existing infrastructure, the State is entering into this Contract with Contractor to administer the Colorado Food Pantry Assistance Grant Program for 2022-2023.

### **B. Food Pantry Grant-making (application, grant payments, technical assistance/customer service, monitoring, reporting/wrap-ups)**

Contractor shall ensure a comprehensive and efficient grant-making process, utilizing the existing process that was developed through the 2021-2022 Food Pantry Assistance Grant process. Specifically, Contractor shall develop and disseminate an application process to enable organizations from across Colorado to apply for these funds as indicated in the timeline (Section D, below); Contractor shall prioritize equitable distribution of the funds and local procurement, as feasible. This process shall include dissemination of a request for proposals that will be distributed widely throughout the food security community.

Contractor shall convene a community review committee with expertise in geographic areas across Colorado to ensure the equitable distribution of grants across Colorado. (Section D, the Work plan provides additional details about the selection process.) As grants are awarded, Contractor shall execute contracts and release funds to grantees. Throughout the process, Contractor shall provide technical assistance to grantees, utilizing both in-house expertise and its broad network of partners.

#### **Monitoring/Compliance:**

Contractor shall closely monitor grantees’ spending. Specifically, the monitoring will entail direct connections with grantees as well as a progress report which will be due in January 2023. The FPAG Manager will work with each grantee to ensure submission of these progress reports and will use these reports to work with each grantee to ensure an effective and responsible plan to spend down the grant funds. 15% of grantees’ funding will be withheld until the progress reports are delivered to ensure compliance. Final reports from grantees will be due by July 15, 2023. Contractor shall submit a final project report to the Colorado Department of Human Services by August 31, 2023. Please see section C and D for milestones and a detailed work plan for these components. Upon finalization of the selection process, Contractor shall provide the Department of Human Services a summary report of all grantees and awards. The Department will be available to Contractor to address questions about the allowability of certain costs and other concerns that arise.

### **C. Schedule/Milestones (Subject to modification based on Contract execution date)**

Upon signing of contract: Develop application process/finalize schedule and milestones  
 July 2022 (following execution of contract): Release Application  
 July-Sept: Secure contract with technical assistance provider  
 Early August 2022: Applications due  
 Mid-August 2022: Notify applicants of decisions; begin contracting process  
 Early September 2022: Contracts signed and checks mailed  
 January 31, 2023: Grantee mid-year reports due  
 Mid-March 2023: Funds reallocated, as needed, based on progress reports  
 April 15, 2023: Status reports due to the State  
 June 30, 2023: All funds are spent. Any unspent funds are returned to the State.  
 July 15, 2023: Final reports from grantees due  
 August 31, 2023: Final report from Contractor to the State

#### **D. Workplan**

##### ***Upon execution of the contract (at least 2 weeks before grant cycle begins):***

- Finalize Grantee Contract Template, including reporting requirements
- Confirm grant cycle schedule
- Select reviewers for each region
- Send out calendar invites to reviewers for reviewer orientation, review timeline, and decision meetings
- Finalize application forms and with correct language and updates
- Finalize application review form for reviewers, link to spreadsheet
- Revise review criteria materials and reviewer orientation materials; create regional folders
- Revise Regional Fact Sheets for reviewers

##### ***Day application opens:***

- Post application forms; add link/language in the website
- Include announcement in weekly newsletter
- Confirm reviewers and assign subcommittee facilitators
- Send guidance to facilitators
- Deliver reviewer orientation, record orientation and email to reviewers

##### ***Day application closes:***

- Close Google form when application cycle is closed and update website language
- Create a Master Grant Spreadsheet
- Save each application as a pdf file; save into regional review folders; upload to Google folders; translate application as needed
- Send out emails to each regional review group with their application assignments, review form, and conflict of interest form
- Allocate available funds by region, based on the percentage of applications (including a floor)

***Subcommittee decision meeting and meeting prep:***

- Using results from the review form spreadsheet, sort reviews into “highly prioritized”, “medium” and “disagreements” categories and prepare subcommittee review agendas
- Provide subcommittee agendas with application rankings to each subcommittee; include allocations from Blueprint team
- Sort subcommittees into Zoom meetings and send invites
- Hold subcommittee decision meetings; collect agendas with decisions
- Create final decision meeting agenda; Hold final decision meeting

***Final Funding Decisions:***

- Create master grant spreadsheet with tabs for mail merge
- Notify applicants of grant decisions
- Send out reviewer thank you email and include feedback form and stipend form

***Communication:***

- Post grantee bios on website
- Develop reports/maps based on applicants and grantees
- Follow-up on technical assistance requests for applicants and grantees
- Ensure that grantees complete community surveys, mid-term, and final reports
- Secure a technical assistance contractor in developing local procurement plans, learning series, and strategies, and support grantees in connecting with additional local procurement resources

***Contracting/Payment:***

- Execute contracts with grantees and collect W-9's, send checks once complete
- Based on data in mid-term reports, re-allocate funding to ensure full spend down of available funds
- Provide final funding installment upon submission of mid-term report

***Reporting & Monitoring:***

- Collect and analyze mid-term progress reports
- Collect community surveys from grantees
- Use data from mid-term reports to check in with each grantee, prioritizing grantees that have not yet spent down 50% of their funds
- Re-allocate funds among existing grantees, as warranted from the mid-term report process
- Submit status report to the State on April 15, 2023.
- Secure an evaluation contractor to analyze application data, progress reports, and final reports as well as support grantees in administering the community survey
- Share final report on all funds by August 31, 2023

**E. Budget**

The Line Item "Grants to food pantries" will be provided upon execution of the Contract to serve as the award for the food pantry grants. All other line items shall be reimbursed as invoiced.

Contractor may shift up to 10% between budget lines with written approval from the State. No Amendment to the Contract shall be required for budget shifts that follow this process.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Initial Contract       | Amendment #1           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|------------------------|
| <b>Grants to food pantries</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                        |                        |
| Budgeted amount for initial awardees                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | \$ 2,377,412.00        | \$ 2,300,000.00        |
| Additional funds available for competitive bid by food pantries that meet the eligibility criteria (including both existing awardees and other food pantries). Grantees will be selected through a community review process that the Blueprint staff will administer.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | \$ -                   | \$ 1,750,000.00        |
| <b>Total Budget</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>\$ 2,377,412.00</b> | <b>\$ 4,050,000.00</b> |
| <b>Technical Assistance Provider</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                        |                        |
| The Contractor will support grantees with the development and implementation of local procurement strategies, and the integration of equitable practices into the charitable food system, pursuant to HB 22-1364.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | \$ 100,000.00          | \$ -                   |
| <b>Total Budget</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>\$ 100,000.00</b>   | <b>\$ -</b>            |
| <b>Program Administration</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                        |                        |
| <b>Administration-</b> Funds available on this line may be spent in any of the categories below, as outlined within the parameters for each category                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                        | \$ 447,700.00          |
| <b>Contractor 5% Admin Fee (Indirect)-</b> As per Contractor's fiscal agreement, administrative fee includes the following: Financial Services: accounts payable, accounts receivable, 990, audited financial audit (including federal audit), prepare financial reports for grants and donations, 501c3 status maintenance, review budgets for grants, assistance on building budgets, fundraising platforms, regular financial reports (frequency determined between project director and finance liaison), credit card, bank reconciliations. Operations: submission of grants, contracts with subcontractors, IT and other vendors, office Supply Account, access to technology (projectors, copier, etc.), organization Liability, Cyber, O&D Insurance, Human Resources, hiring and supervising employees, payroll, benefits administration (health, vision, dental, employee assistance program, short term disability, long term disability, 401k), terminating employees | \$ 142,500.00          |                        |
| <b>Community Stipends-</b> Each grant reviewer (not compensated by their organization) will be provided compensation of \$30/hour, upon request. Additionally, grantees (not compensated by their organization) that participate in FPAG process review meetings throughout the grant cycle will be provided compensation of \$30/hour, upon request.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | \$ 8,000.00            | \$ 1,500.00            |
| <b>Interpretation/Translation-</b> FPAG meetings and related technical assistance opportunities will have simultaneous interpretation. Technical assistance toolkits, community surveys, and any additional supporting documents will be translated into multiple languages.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | \$ 2,500.00            | \$ 800.00              |
| <b>Blueprint Staff-</b> This includes 100% of a Grants Manager for the Food Pantry Assistance Grant as well as 50% of an Impact Manager to support internal evaluation. Other Blueprint staff will spend approximately 5% of their time on FPAG work. Tasks will include the development and implementation of the process, programmatic monitoring among grantees, evaluation and reporting of outcomes, supervision of the grant selection process (see work plan for tasks associated), designing the job description and selecting the FPAG Grant Manager, supporting the selection of an evaluation contractor, and working closely with the FPAG Grant Manager to support programmatic monitoring and technical assistance. This cost includes associated benefits calculated at 28% of salary.                                                                                                                                                                             | \$ 159,588.00          |                        |
| <b>Evaluation Contractor-</b> The evaluation contractor will provide consultation to the Impact Manager on the final design of the client survey, analyze data from applications, progress reports and final reports, and issue a final report on impact and recommendations for the future.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | \$ 60,000.00           |                        |
| <b>Total Budget</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>\$ 372,588.00</b>   | <b>\$ 450,000.00</b>   |
| <b>Grand Total</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>\$ 2,850,000.00</b> | <b>\$ 4,500,000.00</b> |
| Total of all amendments SFY23                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                        | \$7,350,000.00         |



**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 26, 2023

**TO:** President Heather Graham and Members of City Council

**CC:** Mayor Nicholas A. Gradisar

**VIA:** Marisa Stoller, City Clerk

**FROM:** Laura Solano, Chief of Staff

**SUBJECT:** AN ORDINANCE APPROVING AND ACCEPTING A GRANT IN THE AMOUNT OF \$20,000 FROM THE COLORADO CENTENNIAL FUND, A SUBSIDIARY OF THE CARING FOR COLORADO FOUNDATION, FOR THE PUEBLO FOOD PROJECT, RATIFYING THE MAYOR'S SIGNATURE OF THE GRANT AGREEMENT, CREATING PROJECT NO. CI2324, AND BUDGETING AND APPROPRIATING \$20,000 TO PROJECT NO. CI2324

**SUMMARY:**

Attached is an Ordinance approving and accepting a grant in the amount of \$20,000.00 from the Colorado Centennial Fund, a subsidiary of the Caring for Colorado Foundation, to provide funds to continue food systems work by the Pueblo Food Project. This Ordinance creates Project No.CI2324, budgets and appropriates the grant funds to Project No. CI2324, and ratifies the Mayor's signature of the Grant Agreement.

**PREVIOUS COUNCIL ACTION:**

Not applicable to the Ordinance.

**BACKGROUND:**

The Pueblo Food Project has received one previous grant from the Caring for Colorado Foundation to support the work of the Pueblo Food Project Fooducates Youth Council. This award will focus on expanding the cooking program, creating more cooking classes, food preservation classes, gardening classes, and nutrition education for families.

**FINANCIAL IMPLICATIONS:**

There are no matching funds required for this grant. Upon passage of the Ordinance, the City of Pueblo will receive the entire \$20,000.00 for the Pueblo Food Project. The total grant budget for Project No. CI2324 will become \$20,000.00.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable to this Ordinance.

**STAKEHOLDER PROCESS:**

Not applicable to this Ordinance.

**ALTERNATIVES:**

If the proposed Ordinance is not approved, the Pueblo Food Project will not receive the grant funds.

**RECOMMENDATION:**

Approval of the Ordinance.

**ATTACHMENTS:**

1. 06-26-23 PFP Packard\_Fund\_for\_Pueblo\_Grant\_Agreement\_-\_Ple (1)
2. 06-26-23 PFP Caring for Colorado Grant Summary



## ORDINANCE NO.

AN ORDINANCE APPROVING AND ACCEPTING A GRANT IN THE AMOUNT OF \$20,000 FROM THE COLORADO CENTENNIAL FUND, A SUBSIDIARY OF THE CARING FOR COLORADO FOUNDATION, FOR THE PUEBLO FOOD PROJECT, RATIFYING THE MAYOR'S SIGNATURE OF THE GRANT AGREEMENT, CREATING PROJECT NO. CI2324, AND BUDGETING AND APPROPRIATING \$20,000 TO PROJECT NO. CI2324

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

### SECTION 1.

The Sperry S. and Ella Graber Packard Fund for Pueblo Grant Agreement ("Agreement") between the City of Pueblo, a Municipal Corporation, for its Pueblo Food Project, and the Colorado Centennial Fund, a subsidiary of the Caring for Colorado Foundation, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

### SECTION 2.

The Mayor's signature of the Agreement is hereby authorized and ratified on behalf of the City of Pueblo, and the City Clerk is authorized to affix the seal of the City thereto and attest the same.

### SECTION 3.

Project No. CI2324 is hereby created.

### SECTION 4.

Funds in the amount of \$20,000.00 shall be accepted pursuant to the Agreement and budgeted and appropriated to Project No. CI2324.

### SECTION 5.

Pursuant to the Agreement, the Colorado Centennial Fund may unilaterally modify payments under the Agreement. In the event the Colorado Centennial Fund increases the grant award, the additional funds may be accepted pursuant to this Ordinance and budgeted and appropriated into Project No. CI2324, where said funds shall only be expended and used for this project. Should the Colorado Centennial Fund require a total or partial refund of grant funds, the same may be returned to the grantor from Project No. CI2324.

### SECTION 6.

The officers and staff of the City are hereby authorized to perform any and all acts consistent with this Ordinance and the attached Agreement to effectuate the transactions described therein.

### 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

*Sperry S. and Ella Graber*  
**PACKARD FUND**  
*for Pueblo*



**Sperry S. and Ella Graber Packard Fund for Pueblo Grant Agreement**

Grant Recipient: City of Pueblo

Grant Number: PFR-12262-23

Project: Pueblo Food Project Outreach

Total Grant Amount Awarded: \$ 20,000

| Anticipated Payment Date | Payment Amount |
|--------------------------|----------------|
| 06/20/2023               | \$ 20,000      |

Term of Grant: 12 Months Dates: 07/01/2023 to 06/30/2024

The Colorado Centennial Fund, a subsidiary of Caring for Colorado Foundation, administers the Sperry S. and Ella Graber Packard Fund for Pueblo. The Colorado Centennial Fund (the "Fund") must ascertain that your non-profit tax status is maintained throughout the grant cycle. In addition we must be assured that our grant (the "Grant") will be expended for an educational, scientific, or other charitable purpose that will improve the lives of people in Pueblo County. We are also interested in the results of the Grant. With this in mind, we ask that you (the "Grantee") read, sign and return this Grant Agreement (the "Agreement").

1. Tax-Exempt Status:

The Grantee agrees:

- A. To maintain its status as a tax-exempt organization (or working under the umbrella of a recognized tax-exempt organization), i.e., recognized by the IRS as a public charity described in Sections 501(c)(3) and 509(a)(1), (2), or (3) of the Internal Revenue Code of 1986, as amended (the "Code").
- B. That such tax-exempt status under Sections 501(c)(3) and 509(a)(1), (2), or (3) of the Code has not changed since the issuance of the IRS determination letter, which the Grantee provided to the Fund in its Grant application.
- C. That there is no issue presently before any office of the Internal Revenue Service concerning any proposed changes in its tax-exempt status under Sections 501(c)(3) and 509(a)(1), (2), or (3) of the Code.

- D. To provide current and appropriate documentation if the Grantee is a government supported agency, such as a school, museum, library or government agency or department.
- E. That it will provide the Fund with immediate written notification of any changes in the Grantee's tax-exempt status.

2. Representations:

*Colorado Charitable Solicitations Act (CRS 6-16-2014)* – The Grantee acknowledges that it is in compliance with the regulations set forth in the Colorado Charitable Solicitations Act with respect to fundraising.

*Anti-Terrorism (Patriot Act of 2001, Executive Order 13224)* - The Grantee acknowledges that it is familiar with U.S. anti-terrorism laws and that no monies associated with this Grant will be used, either directly or indirectly, to benefit any person or organization with ties to terrorists.

3. Expenditure of Funds:

The Grant (together with any income earned upon investment of Grant funds) is made for the purpose outlined in the project plan and budget available in the grant record on the online grants portal and may not be expended for any other purpose without the Fund's prior written approval. Expenditures of Grant funds must adhere to the specific line items in the budget submitted by the Grantee within the Grant period. For grants greater than \$25,000, changes to individual line items (increases and decreases) that are greater than 15% of that line item must be approved in advance by Fund staff. If the Grant period ends and Grant funds remain unexpended, any unexpended Grant funds shall be repaid promptly to the Fund. If the Grant funds are expended other than for the purposes of the Grant or not in accordance with the approved budget, funds equal in value to the portion of Grant funds determined by the Fund to have been so expended shall be repaid to the Fund upon its request.

4. No Assignment or Delegation:

The Grantee may not assign or otherwise transfer its rights or delegate any of its obligations under this Agreement without prior written approval from the Fund.

5. Reports and Evaluation:

The Grantee is required to provide the Fund with online financial and narrative reports summarizing project results. The Grantee will receive an email request for any report approximately one month before it is due. The Grantee also agrees to provide any other information reasonably requested by the Fund. If the Grantee obtains any audited financial statements covering any part of the period of this Agreement, copies of such statements shall be provided to the Fund.

The Fund may, at its own expense, monitor and conduct an evaluation of the operations under the Grant which may include visits by representatives of the Fund to observe the Grantee's program procedures and operations and to discuss the program with the Grantee's personnel.

6. Required Notification:

The Grantee is required to provide the Fund with immediate written notification of: (1) its inability to expend the Grant funds for the purposes described in the Grant application, this Agreement and any other written or electronic communication describing the terms of the Grant; or (2) any expenditure from this Grant made for any purpose other than those for which the Grant was intended.

7. Research Involving Human Subjects:

If the Grant is to be used in whole or in part for research involving human subjects, the Grantee hereby certifies that the Grantee, applying the ethical standards and the criteria for approval of grants set forth in its Internal Review Boards and professional oaths, has determined that the human subjects involved in this Grant will not experience risk over and above that involved in the normal process of care and are likely to benefit from the proposed research program.

8. HIPAA Compliance – Protected Health Information:

If the Grantee is a Covered Entity as defined in the federal privacy rules promulgated under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Grantee is obligated to maintain the privacy and security of Protected Health Information as defined by HIPAA.

9. Publicity:

The Fund encourages the Grantee to publicize information concerning the awarded Grant on the Grantee’s website, in the Grantee’s newsletters, annual reports and other relevant publications. When possible, any public statements about the Fund or its grantmaking shall be cleared in advance by the Fund (To do so, please contact the Fund program director at 719-566-7841).

The Fund welcomes any photographs relevant to the Grant that may be provided for Fund use. The Grantee must obtain prior permission, with a signed photo release, for use of the photograph in any medium of any individual or group including clients, visitors or bystanders. Parents or legal guardians must sign a release form for minors who appear in photographs. (Please contact the Fund program director at 719-566-7841 for sample releases.)

The Fund may include, without further notice, information regarding this Agreement and/or the Grant, the amount and purpose of the Grant and photographs, logo or trademark, and other published/printed information or materials and (provided by the Grantee) and its activities, on the Fund’s website or electronic communications, in the Fund’s periodic public reports, newsletters and news releases.

10. Right to Modify or Revoke:

The Fund reserves the right to discontinue, modify or withhold any payments to be made under this Agreement or to require a total or partial refund of any Grant funds if, in the Fund’s sole discretion, such action is necessary: (1) because the Grantee has not fully complied with the terms and conditions of this Agreement; (2) to protect the purpose and objectives of this Agreement or any other charitable interest of the Fund; or (3) to comply with the requirements of any law or regulation applicable to the Grantee, the Fund, or the Grant.

11. Termination:

This Agreement shall automatically terminate in the event of the insolvency, receivership, bankruptcy filing, or dissolution of the Grantee.

Either party upon written notice to the other party may terminate this Agreement.

Upon termination of this Agreement for any reason, all payments by the Fund to the Grantee shall cease at such time as may be determined by the Fund. The Grantee specifically acknowledges that immediate cessation of funding, before termination procedures are completed, may be necessary in recognition of the Fund's fiduciary responsibilities.

12. Special Conditions:

The Grantee accepts and agrees to comply with the following special conditions:

None

13. Capital Equipment Limitation:

If the purpose of the Grant is for the purchase of capital equipment, the Grantee shall not sell, transfer or otherwise dispose of such equipment during its useful life without the prior written approval of the Fund. If changes in the Grantee's status as a public charity or changes in its operations result in the Grantee no longer using the capital equipment for the purposes that were the subject of the Grant, the Fund may require the return of the equipment to the Fund or a transfer of the equipment to another public charity.

14. Amendment:

This Agreement may be amended, supplemented or extended only by written agreement signed by the Fund and the Grantee.

15. Disclaimer:

Nothing contained herein, including the required reporting and review procedures, shall be construed as a warranty, representation, or approval by the Fund that the services rendered by the Grantee are adequately or properly rendered on either an individual or program-wide basis. The Grantee shall hold the Fund, its directors, trustees, officers, employees, and agents harmless from all damages, costs, fines, attorneys' fees, or liabilities of any kind or nature arising from any claims, demands or suits resulting from the Grantee's rendering or failure to render services to the extent permitted by Colorado law.

16. Controlling Document:

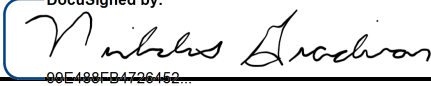
The terms and conditions of this Agreement shall be the controlling document between the Fund and the Grantee. All verbal communication, notes, minutes or other documentation pertaining to the Grant shall be deemed merged into this Agreement. In making the Grant, the Fund has relied on the information and representations submitted to the Fund by the Grantee.

The undersigned certify that they are duly authorized officers of the Grantee and, as such, are authorized to accept this Agreement on behalf of the Grantee, to obligate the Grantee to observe all of the terms and conditions placed on this Agreement, and in connection with this Agreement to make, execute, and deliver on behalf of the Grantee all agreements, representations, receipts, reports, and other instruments of every kind.

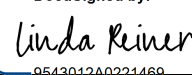
The Parties agree that either or both parties may execute this Agreement in counterparts by signature of the original or transmittal of a signed copy by any electronic means in accordance with the Colorado Electronic Signature Act, C.R.S. 24-71-101 et seq. by affixing an electronic signature that complies with the requirements of the Colorado Uniform Electronic Transactions Act, C.R.S. 24-71.3-101 et seq. for electronic signatures.

ACCEPTED AND AGREED TO:

**ORGANIZATION NAME:** CITY OF PUEBLO

|                                                                                                                                                       |          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| <div>DocuSigned by:<br/><br/><small>90E488FD4726452...</small></div> | 6/5/2023 |
| Nick Gradisar<br>Mayor                                                                                                                                | Date     |

**Colorado Centennial Fund**

|                                                                                                                                                        |          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| <div>DocuSigned by:<br/><br/><small>054301240221489...</small></div> | 6/5/2023 |
| Linda R. Reiner, MPH<br>President and CEO                                                                                                              | Date     |

*Sperry S. and Ella Graber*  
**PACKARD FUND**  
*for Pueblo*

City of Pueblo

Pueblo Food Project Outreach PFR-12262-23 | Funding Source: Packard Fund for Pueblo | 7/1/2023 - 6/30/2024

PF-Children, Youth and Families // Families (PFP)  
Spending Year: 2023

Status

Approved - Contract in Process

▼ Table Of Contents

[GRANT SUMMARY](#)  
[DOCUMENTATION](#)

**IMPORTANT: Please save your work!** The portal logs users out after 15 minutes, so save your work as you complete the application. The save and submit buttons are at the bottom right corner of the application.

1. While you are entering information in your application, click **Save** to save and continue working on it.
2. When you are finished with the application, click **Save and Close**.
3. After clicking Save and Close, you must click the **Submit** button. You will not be able to edit your application after you click submit.

**Part 2 - Proposal Information**

Part 2 of the grant application provides the Packard Fund for Pueblo (PFFP) with additional information about your organization and the proposed work. Please complete the following:

1. Review the organization information and contacts provided in Part 1 - submit any changes if necessary.
2. Complete the Proposal Plan.
3. Attach all required documents.
4. Click Submit when you're done.

You will receive an email confirming Part 2 submission 24-48 hours after submission.

After receiving a complete application, the philanthropy team member assigned to your proposal will be in touch via email to schedule a site visit. Please visit the PFFP [website](#) for additional details about the review process and timeline.

Please contact our team at [grants@caringsforcolorado.org](mailto:grants@caringsforcolorado.org) if you have any questions or issues.

GRANT SUMMARY

Grant Summary - Terms, Conditions and Contacts

**Proposal Title:** Pueblo Food Project Outreach

**Grant ID:** PFR-12262-23

**Grant Type:** Program or Capital

**Proposal Summary:** Expand food literacy and education outreach. Current classes emphasize culturally relevant



recipes with tips to make dishes healthier. Participants learn kitchen skills, nutrition, and use of seasonal ingredients, while they learn how to grow, prepare and store family meals. Expanded classes include children's nutrition, food preservation, and family gardening.

**Mission Statement:** Pueblo Food Project is a community led coalition that helps create a more vibrant, nutritious, and equitable food system for all eaters in Pueblo County.

**Proposal Start Date:** July 1, 2023  
**Proposal End Date:** June 30, 2024  
**Duration (in months):** 12

**Organization Name:** City of Pueblo

#### Objectives

Pueblo Food Project currently hosts monthly Community Meal Prep classes focused on bringing hunger relief and kitchen skills to participants of all ages. Every class utilizes as many local and regional ingredients as possible. Families share a meal together in class and take what they've prepared home; often families are able to take another set of ingredients to make the recipe again, creating 3 events of hunger relief per family from each cooking class. The recipes used are selected by a local chef from Cooking Matters, who Pueblo Food Project works in collaboration with to ensure each class has a focus on nutritionally balanced and culturally responsive foods. Funding from this grant would allow us to hold eight more cooking classes per year, almost doubling current participation rates. Pueblo Food Project will host eight family cooking classes over the course of this grant. We will use the following metrics to measure the impact of our classes: 1. # of pounds of locally purchased ingredients used in each cooking class 2. # of families attending each class 3. # of families attending more than one class 4. # of culturally significant recipes 5. Total number of parents/guardians and children attending each class 6. Use feedback surveys to lead further recipes and instruction as well as take count on increased or decreased intake of local nutritious food by participants

Kitchen skills can be a limiting factor in a family's ability to prepare fresh, from-scratch meals. This can include knife skills, proper food safety, processing techniques, and so on. Each Community Meal Prep class provides opportunities to learn or build upon kitchen skills in order to increase families' confidence and ability to cook with fresh, whole ingredients. To deepen this toolkit, we plan to add components of food preservation such as canning, jarring, freezing, and dry storing to future classes. These class additions would be the first of its kind that Pueblo Food Project offers to the community. Collaborating with partner organizations such as CSU Extension and local producers will ensure quality education and facilitation in these classes. Pueblo Food Project will host four Community Meal Prep classes focused on food preservation over the course of this grant. We will measure increased skill by the following metrics: 1. # of families participating in each preservation class 2. # of pounds of produced preserved 3. Survey feedback asking participants about their confidence in new skills and use at home

Pueblo Food Project has observed increased interest in gardening by our community over the past year. We plan to tie gardening skills into our educational programming to empower families to grow fresh food at home. Home gardening provides the most sustainable food value chain possible while serving as an economical option for families to access fresh produce. Again, Pueblo Food Project will partner with CSU Extension Office and Master Gardeners to ensure high quality education and facilitation in this subject area. These classes will also be a first of their kind for Pueblo Food Project. Pueblo Food Project will host four gardening education classes over the course of this grant. We will measure increased home gardening production by the following metrics: 1. # of families/households starting gardens 2. # times families cooked with produce they grew 3. # of families that preserved food they grew

**Award Amount:**  
\$20,000.00

**Grant Period:**  
July 1, 2023 through June 30, 2024

#### Funding Conditions:

#### Special Provisions:

**Project Primary Contact:\***  
Luann Martinez  
Grant and Development Administrator  
719-568-7726  
lmartinez@pueblo.us  
Contact Address  
(if different from Org Address)

**Organization Primary Contact**  
Nick Gradisar  
Mayor  
1 City Hall Place  
Pueblo, CO 81003  
719-553-2259  
ngradisar@pueblo.us

*\*The project primary contact is the individual responsible for implementation and supervision of the project. The organization primary contact is the CEO or Executive Director of the grantee organization.*

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Sperry S. and Ella Graber Packard Fund for Pueblo funds must be used for the designated purpose(s) outlined in the proposal and, if applicable, in the approved budget.

If the stated proposal goals or implementation change or if the funds are not expended within the agreed upon grant period, please contact the director of place-based philanthropy.

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#### Packard Fund for Pueblo Primary Contact:

Name: Gina Lopez Ferguson  
Title: Place-Based Philanthropy Lead  
Phone: 719-566-7841  
Email: [gferguson@caringforcolorado.org](mailto:gferguson@caringforcolorado.org)

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#### Reporting Requirements

During the course of each grant contract year, grantees may be to submit narrative and/or financial reports as scheduled. You will receive a reminder email with detailed reporting instructions approximately one month before each report is due. If applicable, financial reports should contain a financial accounting of expenditures, according to the line item categories of the approved budget. Late reports will delay or jeopardize future payments or renewal funding. An organization that fails to provide the required reports on a grant may become ineligible for future funding.

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|              |               |
|--------------|---------------|
| Final Report | July 31, 2024 |
|--------------|---------------|

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#### Grant Amendments

Grantees of the Sperry S. and Ella Graber Packard Fund for Pueblo should contact the director of place-based philanthropy to discuss potential changes to the approved scope of work or budget. If the director of place-based philanthropy determines an amendment is necessary, an online amendment form will be made available in the grants portal. Log into your account, enter the proposed changes in the form and submit it. The online form must be approved before implementing the change(s).

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#### Communications Information

The Sperry S. and Ella Graber Packard Fund for Pueblo encourages grantees to inform constituents about grant awards through a news release, community newsletter, email to stakeholders or through social media outlets. Please contact the Foundation for information on how to publicize your work, how to refer to the Foundation, access to the Foundation's logo and additional resources.

#### DOCUMENTATION

Please be sure to **SAVE** this form before uploading attachments.

Please **consolidate any optional information** into one PDF and attach as one file. Only one additional attachment is allowed.

Contact [grants@caringforcolorado.org](mailto:grants@caringforcolorado.org) to request removal or deletion of any attachments uploaded in error.

##### List of Required Documentation

- **Proposal Narrative**— Upload Common Grant Application Narrative.
- **For Project Grants Only**— Download the budget template [here](#). Instructions on how to complete the template are included.

- **Key Program/Project Staff**– Attach a list of names and qualifications of key program/project staff. Please include CEO and CFO or equivalent.
- **Board of Directors**– Attach a list of the organization's board of directors, with titles.
- **Anti-Discrimination Policy**– Attach the organization's anti-discrimination policy, including date of adoption.
- **Major Contributors**– Attach a list of the major contributors to the organization and contribution amounts for the previous fiscal year.
- **Annual Financials** – Please provide **audited financials** for the most recently completed fiscal year end. If this is unavailable, please provide IRS Form 990/990EZ or internal year-end balance sheet and income statement.
- **YTD Financial Statements**– Attach most current year-to-date internal financial statements (Statement of Activities and Balance Sheet), including budget-to-actual data, if available.
- **Operating Budget**– Attach current-year annual operating budget.
- **Optional additional attachment (not required)**– Please consolidate any additional materials into a PDF and attach as one file. Additional attachments are NOT required.

#### GRANTEE REQUEST DOCUMENTS

 [Packard Fund General Grant Agreement.docx.signed.pdf](#) 

##### **AB\_Executed Grant Agreement**

Added by Caryn Apodaca at 8:59 AM on June 5, 2023

 [Packard Fund General Grant Agreement.docx](#) 

##### **AB\_Executed Grant Agreement**

Added by Caryn Apodaca at 6:26 PM on June 4, 2023

Signed by: ngradisar@pueblo.us [Needs to sign] on June 5, 2023,  
Ireiner@caringforcolorado.org [Needs to sign] on June 5, 2023 , lmartinez@pueblo.us  
[Receives a copy] on June 5, 2023

 [pfp financial statements.pdf](#) 

##### **I\_YTD Financial Statements**

Added by Luann Martinez at 3:25 PM on February 7, 2023

 [pfp budget.pdf](#) 

##### **JB\_Organizaton Budget**

Added by Luann Martinez at 3:24 PM on February 7, 2023

 [English PFP Annual Report.pdf](#) 

##### **K\_Optional Attachment**

Added by Luann Martinez at 3:23 PM on February 7, 2023

 [2021 Single Audit.pdf](#) 

##### **H\_Year End/Audited Financial Statements**

Added by Luann Martinez at 3:21 PM on February 7, 2023

 [pfp major contributors inkind and sources.pdf](#) 

##### **G\_Major Contributors**

Added by Luann Martinez at 3:21 PM on February 7, 2023

 [pfp antidiscrimination.pdf](#) 

##### **F\_Anti-Discrimination Policy**

Added by Luann Martinez at 3:16 PM on February 7, 2023

 [pfp bod.pdf](#) 

##### **E\_Board of Directors**

Added by Luann Martinez at 3:04 PM on February 7, 2023

|                                                                                                                              |                                                                                     |
|------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
|  <a href="#">pfp_key_staff.pdf</a>          |  |
| <b>D_Key Program/Project Staff</b><br>Added by Luann Martinez at 3:03 PM on February 7, 2023                                 |                                                                                     |
|  <a href="#">pfp_budget.pdf</a>             |  |
| <b>JA_Project Budget</b><br>Added by Luann Martinez at 3:00 PM on February 7, 2023                                           |                                                                                     |
|  <a href="#">pfp_proposal_narrative.pdf</a> |  |
| <b>A_Proposal Narrative</b><br>Added by Luann Martinez at 2:59 PM on February 7, 2023                                        |                                                                                     |



**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 26, 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 AUTHORIZING ASSIGNMENT OF A PRIVATE ACTIVITY BOND ALLOCATION FROM THE CITY OF PUEBLO TO THE COLORADO HOUSING AND FINANCE AUTHORITY PURSUANT TO THE COLORADO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT.

**SUMMARY:**

This Ordinance will allow the City of Pueblo to assign to the Colorado Housing and Finance Authority (CHFA) \$6,753,605.00 in Private Activity Bonds, previously awarded to the City pursuant to the Colorado Private Activity Bond Ceiling Allocation Act, C.R.S. 24-32-1701 et seq. These funds will be used to finance multi-family or single-family mortgage loans for low- and moderate-income persons and families within Pueblo County and throughout the state.

**PREVIOUS COUNCIL ACTION:**

Not applicable to this Ordinance.

**BACKGROUND:**

The Ordinance assigns to the Colorado Housing Finance Authority (CHFA) the City's Private Activity Bond (PAB) allocation for use in multi-family Mortgage Revenue Bonds (MRB). The allocation is to be reserved for the Compass Pointe Apartment project, a 192-unit multi-family development off of Oakshire Lane.

**FINANCIAL IMPLICATIONS:**

The Private Activity Bond is "private" in nature and not for governmental use, so there is no cost associated with assigning the bond to CHFA. Financial benefits come to the City through sales tax derived from material sales on PAB construction projects, by increased economic activity in the real estate employment sector, and in retail sales from furnishings and other end user activity associated with a new home purchase.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable for this Ordinance.

**STAKEHOLDER PROCESS:**

Not applicable for this Ordinance.

**ALTERNATIVES:**

If the Ordinance is not approved, the bond cap will not be assigned to CHFA and the allocation will revert to the State of Colorado on September 15, 2023.

**RECOMMENDATION:**

The Department of Housing and Citizen Services recommends approval of the Ordinance.

**ATTACHMENTS:**

1. 2023 Assignment of Allocation-City of Pueblo
2. 2023 City Attorney Certification
3. Allocation Notification from State of Colorado

## ORDINANCE NO.

### AN ORDINANCE AUTHORIZING ASSIGNMENT OF A PRIVATE ACTIVITY BOND ALLOCATION FROM THE CITY OF PUEBLO TO THE COLORADO HOUSING AND FINANCE AUTHORITY PURSUANT TO THE COLORADO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT.

WHEREAS, the City of Pueblo is authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of financing qualified residential rental projects for low- and moderate-income persons and families; and

WHEREAS, the City of Pueblo is authorized and empowered under the laws of the State to issue revenue bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to provide such mortgage loans and for certain other purposes; and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Colorado Housing and Finance Authority (the "Authority") and other governmental units in the State, and further providing for the assignment of such allocations from such other governmental units to the Authority; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the City of Pueblo has an allocation of the 2023 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 2023 (the "2023 Allocation"); and

WHEREAS, the City of Pueblo has determined that, in order to increase the availability of adequate affordable housing for low- and moderate-income persons and families within the City of Pueblo and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2023 Allocation; and

WHEREAS, the City of Pueblo has determined that the 2023 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Authority to issue Private Activity Bonds for the purpose of financing one or more multi-family rental housing projects for low- and moderate-income persons and families, or for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families ("Revenue Bonds") or for the issuance of mortgage credit certificates; and

WHEREAS, the City Council of the City of Pueblo has determined to assign \$6,753,605.00 of its 2023 Allocation to the Authority, which assignment is to be evidenced by an Assignment of Allocation between the City of Pueblo and the Authority (the "Assignment of Allocation"); NOW, THEREFORE,

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

The Assignment of Allocation, a copy of which is attached hereto and made a part hereof by reference, by and between the City of Pueblo, a Municipal Corporation, and the Colorado Housing and Finance Authority, after having been approved as to form by the City Attorney, is hereby accepted and approved; provided, however, that the Mayor is hereby authorized to make such technical variations, additions, or deletions in or to such Assignment of Allocation as he shall deem necessary or appropriate and not inconsistent with the approval

thereof by this Ordinance.

**SECTION 2.**

The Mayor of the City of Pueblo is hereby authorized to execute and deliver the Assignment of Allocation on behalf of the City of Pueblo and to take such other steps or actions as may be necessary, useful, or convenient to affect the aforesaid assignment in accordance with the intent of this Ordinance, and any execution by electronic signature is hereby attributable to the Mayor and the City of Pueblo.

**SECTION 3.**

The assignment to the Authority of \$6,753,605.00 of the City of Pueblo's 2023 Allocation is hereby approved

**SECTION 4.**

If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

**SECTION 5.**

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance and the Assignment of Allocation to effectuate the transactions described therein, including but not limited to the City Attorney's signature of the 2023 Private Activity Bond Attorney Certification.

**SECTION 6.**

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

**Action by City Council:**

Introduced and initial adoption of Ordinance by City Council on \_\_\_\_\_.

Final adoption of Ordinance by City Council on \_\_\_\_\_.

\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☐ Approved on \_\_\_\_\_.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

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\_\_\_\_\_  
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



## assignment of allocation - city

### Multifamily Housing Facility Bonds/Single Family Mortgage Revenue Bonds

This Assignment of Allocation (the "Assignment"), dated this 10th day of July, 2023, is between the City of Pueblo, Colorado (the "Assignor" or the "Jurisdiction") and Colorado Housing and Finance Authority (the "Assignee").

#### WITNESSETH:

WHEREAS, the Assignor and the Assignee are authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to finance such projects and for certain other purposes (the "State Ceiling"); and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Assignee and other governmental units in the State, and further providing for the assignment of allocations from such other governmental units to the Assignee; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the Assignor has an allocation of the 2023 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 2023, (the "2023 Allocation"); and

WHEREAS, the Assignor has determined that, in order to increase the availability of adequate affordable rental housing for low- and moderate-income persons and families within the Jurisdiction, Colorado and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2023 Allocation; and

WHEREAS, the Assignor has determined that the 2023 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Assignee to issue Private Activity Bonds for the purpose of financing one or more multifamily rental housing projects for low- and moderate-income persons and families or to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families ("Revenue Bonds"), and the Assignee has expressed its willingness to attempt to issue Revenue Bonds with respect to the 2023 Allocation assigned herein; and

WHEREAS, the City Council of the Assignor has determined to assign to the Assignee all or a portion of its 2023 Allocation, and the Assignee has agreed to accept such assignment, which is to be evidenced by this Assignment.

NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. The Assignor hereby assigns to the Assignee \$ 6,753,605 of its 2023 Allocation (the "Assigned Allocation"), subject to the terms and conditions contained herein. The Assignor represents that it has received no monetary consideration for said assignment.

2. The Assignee hereby accepts the assignment to it by the Assignor of the Assigned Allocation, subject to the terms and conditions contained herein. The Assignee agrees to use its best efforts to issue and sell Revenue Bonds in an aggregate principal amount equal to or greater than the Assigned Allocation, in one or more series, and to make proceeds of such Revenue Bonds available from time to time for a period of one (1) year from the date of this Assignment to finance multi-family rental housing projects located in the Jurisdiction, or to issue Revenue Bonds for the purpose of providing single-family mortgage loans to low- and moderate income persons and families in the Jurisdiction.

3. The Assignor hereby consents to the election by the Assignee, if the Assignee in its discretion so decides, to treat all or any portion of the Assigned Allocation as an allocation for a project with a carryforward purpose or to make a mortgage credit certificate election, in lieu of issuing Revenue Bonds.

4. The Assignor and Assignee each agree that it will take such further action and adopt such further proceedings as may be required to implement the terms of this Assignment.

5. Nothing contained in this Assignment shall obligate the Assignee to finance any particular multi-family rental housing project located in the Jurisdiction or elsewhere or to finance single-family mortgage loans in any particular amount or at any particular interest rate or to use any particular percentage of the proceeds of its Revenue Bonds to provide mortgage loans or mortgage credit certificates to finance single-family housing facilities in the Jurisdiction, provided that any Revenue Bond proceeds attributable to the Assigned Allocation shall be subject to paragraph 2 above.

6. This Assignment is effective upon execution and is irrevocable.

7. Counterparts. This Assignment may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Assignment by electronic image scan transmission will be effective as delivery of a manually executed counterpart of the Assignment.

IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment on the date first written above.

City of Pueblo, Colorado

By: \_\_\_\_\_

Name: Nicholas A. Gradisar

Title: Mayor

COLORADO HOUSING AND FINANCE  
AUTHORITY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

CERTIFICATE OF THE CITY OF PUEBLO, COLORADO  
CONCERNING ASSIGNMENT OF  
PRIVATE ACTIVITY BOND VOLUME CAP ALLOCATION

I, the undersigned, hereby certify that I am a duly chosen, qualified and Acting City Attorney of the City of Pueblo, Colorado (the “City”), and that:

1. The City is a public body politic and corporate, duly organized and existing under the constitution and laws of the State of Colorado.

2. The City has been previously notified that, pursuant to Section 24-32-1706 of the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the “Allocation Act”), it has an allocation of the State ceiling (as defined in the Allocation Act) for 2023 in the amount of \$6,753,605 (the “2023 Allocation”).

3. Attached hereto as Exhibit A is a true and correct copy of an ordinance and the related minutes thereto (the “Ordinance”) authorizing the assignment to the Colorado Housing and Finance Authority (the “Authority”) of all or a portion of the 2023 Allocation in an amount equal to \$6,753,605 (the “Assigned Allocation”), and authorizing the execution and delivery of an Assignment of Allocation dated as of July 10, 2023 (the “Assignment of Allocation”) between the City and the Authority in connection therewith, which Ordinance was duly adopted by the City Council of the City (the “City Council”) at a meeting thereof held on July 10, 2023, at which meeting a quorum was present and acting throughout and which Ordinance has not been revoked, rescinded, repealed, amended or modified and is in full force and effect on the date hereof.

4. The meeting of the City Council at which action has been taken with respect to the Assignment of Allocation was a regular meeting properly called and open to the public at all times.

5. With respect to the Assigned Allocation, the City has not heretofore: (a) issued private activity bonds; (b) assigned the Assigned Allocation to another “issuing authority,” as defined in the Allocation Act; (c) made a mortgage credit certificate election; or (d) treated the Assigned Allocation as an allocation for a project with a carryforward purpose, as defined in the Allocation Act.

6. The Assignment of Allocation, attached hereto as Exhibit B, is in the form presented to and approved by the City Council at the meeting thereof held on July 10, 2023.

7. On or before the date hereof, counterparts of the Assignment of Allocation were officially executed by the Mayor and the City Clerk of the City. On the date of such signing, such persons were the duly sworn, qualified and acting officers of the City authorized to execute the Assignment of Allocation and holding the offices of the Mayor and City Clerk, respectively.

8. The City has authorized the execution, delivery and due performance of the Assignment of Allocation, and the execution and delivery of the Assignment of Allocation and the compliance by the City with the provisions thereof, will not, to the best of my knowledge, conflict with or constitute on the part of the City a breach of or a default under any existing Colorado law, City ordinance, court or administrative regulation, decree or order or any agreement or other instrument to which the City is subject or by which it is bound.

9. To the best of my knowledge, there does not exist any action, suit, proceeding or investigation pending, or threatened against the City, contesting (a) the corporate existence of the City, (b) the title of its present officers or any of them to their respective offices, including, without limitation, the members of the City Council, (c) the validity of the Assignment of Allocation, or (d) the power of the City to execute, deliver or perform the Assignment of Allocation.

10. No referendum petition has been filed concerning the Ordinance; and to the best of my knowledge none is being circulated or planned for circulation.

WITNESS my hand and the seal of the City this \_\_\_\_\_, 2023.

---

Acting City Attorney

(SEAL)

EXHIBIT A  
ORDINANCE

EXHIBIT B

ASSIGNMENT OF ALLOCATION





January 13, 2023

Bryan Gallagher  
Acting Director, Dept. of Housing & Citizen Services  
City of Pueblo  
2631 East 4th Street  
Pueblo, CO 81001

Re: Private Activity Bond Allocation of \$6,753,605

Dear Mr. Gallagher:

I hereby certify that the above amount will be allocated to the respective local government for the purpose of issuing Private Activity Bonds (PAB) in 2023 under the state ceiling imposed by the Internal Revenue Code of 1986, as amended.

In accordance with the provisions of C.R.S. 24-32-1709.5, a fee on bonds issued is due to DOLA for the portion of each issuance that originated from a direct allocation. The amount of this fee is subject to revision, but is currently 0.027% of bonds issued. This fee is also due within five working days of the bond closing. In the event that the full allocation amount is not issued, or the fee rate changes, the fee will be recalculated to reflect the actual amount issued and the rate in effect at the time of closing.

If you have any questions, please contact Wayne McClary at (303) 864-7819 or [wayne.mcclary@state.co.us](mailto:wayne.mcclary@state.co.us).

Sincerely,

Rick M. Garcia  
Executive Director



**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 26, 2023

**TO:** President Heather Graham and Members of City Council

**CC:** Mayor Nicholas A. Gradisar

**VIA:** Marisa Stoller, City Clerk

**FROM:** Nicholas Gradisar, Mayor

**SUBJECT:** AN ORDINANCE APPROVING AN AGREEMENT BETWEEN PUEBLO, A MUNICIPAL CORPORATION, AND THE CITY OF CHIHUAHUA, STATE OF CHIHUAHUA OF THE UNITED MEXICAN STATES, AND AUTHORIZING AND RATIFYING THE EXECUTION OF SAME BY THE MAYOR

**SUMMARY:**

The proposed Ordinance approves a Cooperation Agreement between the City of Pueblo and Pueblo's Sister City, the City of Chihuahua.

**PREVIOUS COUNCIL ACTION:**

Resolution 13038 (August 25, 2014) approved prior Cooperation Agreement between the City of Pueblo and Pueblo's Sister City, the City of Chihuahua.

**BACKGROUND:**

The City of Pueblo and the City of Chihuahua have been Sister Cities for many years. In the attached agreement, both cities formally agree to cooperate in the areas of commerce, education, culture, tourism, sports and security. The agreement has been executed by the Mayor but is specifically conditioned upon and will not go into effect until approval by ordinance. The term of the agreement is for five years.

**FINANCIAL IMPLICATIONS:**

None.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable to this Ordinance.

**STAKEHOLDER PROCESS:**

Not applicable to this Ordinance.

**ALTERNATIVES:**

The Cooperation Agreement strengthens the ties between the City of Pueblo and the City of Chihuahua. The City can maintain informal contact with the City of Chihuahua without the agreement.

**RECOMMENDATION:**

The Mayor's Office recommends approval of the Ordinance.

**ATTACHMENTS:**

1. Cooperation Agreement between City of Pueblo and Chihuahua Mexico - English
2. Cooperation Agreement between City of Pueblo and Chihuahua Mexico - Espanol

ORDINANCE NO.

AN ORDINANCE APPROVING AN AGREEMENT BETWEEN PUEBLO, A MUNICIPAL CORPORATION, AND THE CITY OF CHIHUAHUA, STATE OF CHIHUAHUA OF THE UNITED MEXICAN STATES, AND AUTHORIZING AND RATIFYING THE EXECUTION OF SAME BY THE MAYOR

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

SECTION 1.

The Cooperation Agreement ("Agreement") between Pueblo, a municipal corporation, and the City of Chihuahua of the State of Chihuahua of the United Mexican States attached hereto is hereby approved.

SECTION 2.

The execution of said Agreement by the mayor for and on behalf of the City is hereby approved and ratified. 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

**COOPERATION AGREEMENT BETWEEN THE CITY OF CHIHUAHUA OF THE  
STATE OF CHIHUAHUA OF THE UNITED MEXICAN STATES AND THE CITY OF  
PUEBLO OF THE STATE OF COLORADO OF THE UNITED STATES OF AMERICA**

The City of Chihuahua of the State of Chihuahua of the United Mexican States and the City of Pueblo of the State of Colorado of The United States of America hereinafter referred to as "the Parties";

**COMPELLED** by the will to strengthen the existing bonds of friendship and cooperation between both institutions;

**ATTENTIVE** of fostering the development of specific cooperation programs in matters of economic and industrial development, culture, tourism, and public safety;

**AWARE** as to the importance of exchanging experiences that contribute to the strengthening of activities related to best practices matters;

**TAKING INTO CONSIDERATION** as framework the Cooperation Agreement signed between the Government of the City of Chihuahua, of the State of Chihuahua of the United Mexican States and the Government of the City of Pueblo, of the State of Colorado of the United States of America in the City of Chihuahua on April 28, 2017.

Have agreed as follows:

**ARTICLE I**

**Objective**

The objective of this Agreement is to establish the legal framework for the Parties to carry out cooperation activities in the areas of economic development, cultural, tourism and public safety.

**ARTICLE II**

**Areas of Cooperation**

In order to achieve the objective referred to in Article I, the Parties will carry out cooperation activities in areas of economic and industrial development, cultural, tourism and public safety.

**a) Culture**

To promote cooperation and exchange between the parties to disseminate their respective cultural heritage, in order to carry out a formal, professional and institutional exchange of information related to history and customs;

**b) Education**

To promote cooperation and academic exchange of students and/or academics between educational institutions of all levels to promote cultural, historical, and language exchange.

**c) Economic and Industrial Development**

To promote and generate the conditions for the organization and participation of activities of the Parties, including: trade missions, company exhibitions, fairs, seminars and forums where the authentic products and services of the Parties are exposed, in order to increase the flows of goods and services.

**d) Tourism**

To promote tourism between the Parties to publicize places of public and cultural interest.

Exchange information on dissemination and promotion of the main tourist attractions of the Parties, in order to increase the dynamics in this branch of economic activity.

**e) Public Safety**

Promote and generate the conditions for the exchange of good practices between the police and fire departments between both parties.

f) any other areas of cooperation the Parties may agree upon.

**ARTICLE III****Modalities of Cooperation**

In order to achieve the objective of the present Agreement, the Parties may carry out the cooperation activities that include, but are not limited to, thru specific collaboration programs and/or work programs

The execution of this Agreement will not be conditioned to the Parties establishing projects in all fields and modalities of cooperation referred to in this Article.

The Parties will not be obliged to collaborate in activities for which a prohibition exists, whether it is internal in nature, or derived from law, or custom.

**ARTICLE IV****Work Programs and / or Technical Annexes  
And / or Specific Collaboration Programs**

The Parties will formulate Work Programs (*which can be annual or biannual in nature, depending on the Parties interests*) consisting of the activities or projects to be developed, which once formalized will be an integral part of this Agreement, and must contain the following information:

- a) objectives;
- b) execution schedule;
- c) allocation of human and material resources;
- d) financing;
- e) responsibilities for each of the Parties;
- f) publication of results; and
- g) any other information the Parties may see fit.

**ARTICLE V  
Financing**

The Parties shall provide financing for the activities referred to in this Agreement, with resources allocated within their own respective budgets, according to availability, budgetary allocation, and the provision of law.

Each Party must provide for its own participation expenses, except in the case it is considered appropriate to resort to alternative financing mechanisms for specific activities, or if the Parties agree to specific financial arrangements for such activities.

**ARTICLE VI  
Participation of Third-Party Institutions**

The Parties, when deemed convenient, will encourage the partaking of third-party institutions, public or private, whose activities directly affect the areas of cooperation, in order to strengthen and widen the mechanisms that provide for an effective execution of this Agreement.

**ARTICLE VII  
Intellectual Property**

If as a result of the cooperation activities under this Agreement, products of commercial value and / or intellectual property rights are generated, they shall be ruled in accordance to applicable national legislation, as well as international agreements on such matters, binding to both, the Mexican United States and the United States of America.

**ARTICLE VIII  
Data Protection**

If at any moment during the deployment of the cooperation activities set forth by this Agreement, any data, material and / or equipment is identified as in need to be protected and classified, the Parties will inform the proper authorities, and shall establish, in writing, the corresponding measures to be taken.

The transfer of any unprotected and unclassified data should be carried out in accordance to applicable national legislation and use. Any such transfer will be duly identified.

At the request of any of the Parties, the required measures shall be taken to prevent unauthorized transfer or retransfer of such data, material or equipment.

**ARTICLE IX  
Temporary Import of Equipment and Material**

The Parties shall grant each other with all the necessary administrative, fiscal and customs facilitations for the entry and exit into and from their territory, on a temporary basis, of the equipment and materials to be used in the carrying out of the projects, in accordance with their national legislation.

**ARTICLE X  
Follow-up Mechanism**

In order to achieve the best conditions for the execution of this Agreement, the Parties shall appoint a representative for each one of Them, who will serve as coordinators to the follow-up of the cooperation activities referred to by this Agreement.

In order to achieve the best conditions for the execution of this Agreement, the Parties shall establish a Work Group or Mixed Committee.

The coordinators shall formulate reports on the advancements made, and make inform of them to their respective Chancelleries, as well as any other bilateral stances they deem relevant.



**ARTICLE XI  
Employment Relationship**

The personnel assigned by each Party for the execution of activities derived from the present Agreement, shall continue under the direction and dependence of the institution to which he/she pertains, and shall not create any labor relation with the other Party, which in no case shall be considered as a substitute employer

**ARTICLE XII  
Personnel Entry and Exit**

The Parties shall carry out the necessary procedures under their respective authorities in order to facilitate the entry and departure of participants who are officially involved in the projects derived from the present Agreement. Such participants shall be subject to the immigration, tax, customs, sanitary and national-security laws of the receiving country and may not partake in any activity other than those pertaining to their functions, without the previous authorization of the competent authorities in this field.

**ARTICLE XIII  
Insurance**

The Parties shall make sure that the personnel involved in such activities have medical, personal damage and life insurance, so that, if a damage results from such activities derived from the present Agreement, repair or indemnification shall be covered by the corresponding insurance company.

**ARTICLE XIV  
Civil Liability**

The parties will remain safe from any civil liability due to damages produced as a consequence of incidental event or force majeure, particularly due to stoppage of academic or administrative activities.

**ARTICLE XV  
Other Related Instruments**

The cooperation under this Agreement shall be carried out without prejudice to the rights and obligations the Parties may have acquired under other international agreements binding them.

**ARTICLE XVI  
Settlement of Disputes**

Any difference or divergence derived from the interpretation or application of the present Instrument shall be resolved by both Parties in common agreement.

**ARTICLE XIV**  
**Final Provisions**

The present Agreement shall go into effect upon the date of its signature and after and conditioned upon passage and approval by City Council of the City of Pueblo of an Ordinance approving this Agreement and shall remain in effect for up to a five (5) year period, and may be renewed for equal periods, by evaluation and acceptance, unless any one Party expresses its decision to terminate it, through written communication, six (6) months in advance.

The present Agreement may be modified by mutual consent of the Parties, by formalizing it through written communications and specifying the date of its enforcement.

The anticipated termination of the present Agreement shall not affect the completion of the activities, formalized while it was in force.

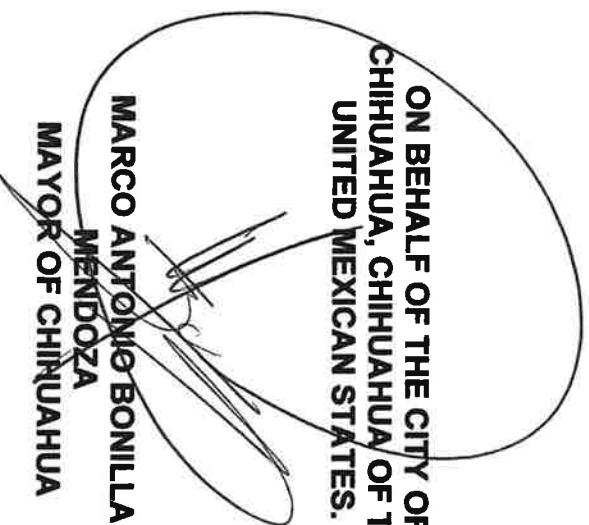
Signed in the City of Chihuahua, Chihuahua, on the 9 of June of 2023, in two original and official copies in the Spanish and English languages, all texts being equally authentic.

**ON BEHALF OF THE CITY OF  
PUEBLO COLORADO OF THE  
UNITED STATES OF AMERICA.**



**NICHOLAS A. GRADISAR**  
**MAYOR OF PUEBLO**

**ON BEHALF OF THE CITY OF  
CHIHUAHUA, CHIHUAHUA OF THE  
UNITED MEXICAN STATES.**



**MARCO ANTONIO BONILLA**  
**MENDOZA**  
**MAYOR OF CHIHUAHUA**

## **ACUERDO DE COOPERACIÓN ENTRE LA CIUDAD DE CHIHUAHUA, CHIHUAHUA DE LOS ESTADOS UNIDOS MEXICANOS Y LA CIUDAD DE PUEBLO COLORADO DE LOS ESTADOS UNIDOS DE AMÉRICA.**

La Ciudad de Chihuahua, Chihuahua de los Estados Unidos Mexicanos y la Ciudad de Pueblo Colorado de los Estados Unidos de América en adelante denominados "las Partes";

**ANIMADAS** por el deseo de fortalecer los lazos de amistad y cooperación existentes entre ambas ciudades;

**INTERESADAS** en fomentar el desarrollo de programas específicos de cooperación en materia de desarrollo económico e industrial, cultura, turística y de seguridad pública;

**CONSCIENTES** de la importancia de intercambiar experiencias que contribuyan al fortalecimiento de las actividades en materia de buenas prácticas;

**CONSIDERANDO** como antecedente el Convenio de Cooperación firmado entre el Gobierno de la Ciudad de Chihuahua, del Estado de Chihuahua de los Estados Unidos Mexicanos y el Gobierno de la Ciudad de Pueblo, del Estado de Colorado de los Estados Unidos de América en la Ciudad de Chihuahua el día 28 de abril del 2017.

Han acordado lo siguiente:

### **ARTÍCULO I**

#### **Objetivo**

El presente Acuerdo tiene como objetivo establecer el marco jurídico para que las Partes lleven a cabo actividades de cooperación en materia de desarrollo económico, cultural, turístico y de seguridad pública.

### **ARTÍCULO II**

#### **Áreas de Cooperación**

Para el logro del objetivo a que se refiere el Artículo I, las Partes llevarán a cabo actividades de cooperación en las áreas siguientes:

##### **a) Cultura**

Promover la cooperación e intercambio entre las partes para difundir su respectivo patrimonio cultural, con la finalidad de llevar a cabo un intercambio formal, profesional e institucional de información relacionada con la historia y costumbres;

##### **b) Educación**

Promover la cooperación e intercambio académico de estudiantes y/o académicos entre instituciones educativas de todos los niveles para promover el intercambio cultural, histórico y de idioma.

##### **c) Desarrollo Económico e Industrial**

Promover y generar las condiciones para la organización y participación de actividades de las Partes, incluyendo: misiones comerciales, exposiciones de empresas, ferias, seminarios y foros donde los productos auténticos y servicios de las Partes están expuestos, con el fin de incrementar los flujos de bienes y servicios.

**d) Turismo**

Promover el turismo entre las Partes para dar a conocer los lugares de interés público y cultural. Intercambiar información sobre difusión y promoción de los atractivos turísticos principales de las Partes, con el fin de aumentar la dinámica en esta rama de la actividad económica.

**e) Seguridad Pública**

Promover y generar las condiciones para el intercambio de buenas prácticas entre los departamentos de policía y bomberos entre ambas partes.

**f) cualquier otra área que las Partes convengan.**

### **ARTÍCULO III**

#### **Modalidades de Cooperación**

Para alcanzar el objetivo del presente Acuerdo, las Partes podrán llevar a cabo las actividades de cooperación de manera enunciativa, pero limitativa, a través de proyectos específicos de cooperación y/o Programas de Trabajo.

La operación de este Acuerdo no estará condicionada a que las Partes establezcan proyectos en todos los campos y modalidades de cooperación a que se refiere el presente Artículo.

Las Partes no estarán obligadas a colaborar en aquellas actividades respecto de las cuales exista prohibición interna o bien derivada de una ley, normativa institucional o costumbre.

### **ARTÍCULO IV**

#### **Programas de Trabajo y/o Anexos Técnicos y/o Programas de Colaboración Específica**

Las Partes formularán Programas de Trabajo integrados por las actividades o proyectos a ser desarrollados, los que una vez formalizados formarán parte integrante del presente Acuerdo, debiendo contener la información siguiente:

- a) objetivos;
- b) cronograma de ejecución;
- c) asignación de recursos humanos y materiales;
- d) financiamiento;
- e) responsabilidad de cada una de las Partes;
- f) difusión de resultados; y
- g) cualquier otra información que las Partes estimen conveniente.

### **ARTÍCULO V**

#### **Financiamiento**

Las Partes financiarán las actividades a que se refiere el presente Acuerdo con los recursos asignados en sus respectivos presupuestos, de conformidad con su disponibilidad, afectación presupuestal y lo dispuesto por su legislación nacional.

Cada Parte sufragará los gastos de su participación, excepto en el caso de que se considere adecuado utilizar mecanismos de financiamiento alternos para actividades específicas o que las Partes convengan arreglos financieros específicos para dichas actividades.

## **ARTÍCULO VI**

### **Participación de Otras Instituciones**

Las Partes, de estimarlo conveniente, alentarán la participación de otras instituciones públicas o privadas, cuyas actividades incidan directamente en las áreas de cooperación, con el propósito de fortalecer y ampliar los mecanismos que apoyen una efectiva instrumentación de este Acuerdo.

## **ARTÍCULO VII**

### **Propiedad Intelectual**

Si como resultado de las actividades de cooperación al amparo del presente Acuerdo, se generan productos de valor comercial y/o derechos de propiedad intelectual, éstos se regirán por la legislación nacional aplicable, así como por las convenciones internacionales en la materia, vinculantes para los Estados Unidos Mexicanos y los Estados Unidos de América.

## **ARTÍCULO VIII**

### **Protección de la Información**

Si durante la instrumentación de las actividades de cooperación establecidas en el presente Acuerdo, se identifica información, material y/o equipo que requieran ser protegidos y clasificados, las Partes lo informarán a las autoridades competentes y establecerán, por escrito, las medidas correspondientes.

La transferencia de información, material y equipo no protegido y no clasificado, se llevará a cabo de acuerdo con la legislación nacional aplicable y su uso. Dicha transferencia se identificará debidamente.

A petición de cualquiera de las Partes, se tomarán las medidas necesarias, para evitar la transferencia o retransferencia no autorizada de dicha información, material y equipo.

## **ARTÍCULO IX**

### **Importación Temporal de Equipo y Material**

Las Partes se otorgarán todas las facilidades administrativas, fiscales y aduaneras necesarias para la entrada y salida de su territorio, con carácter temporal, del equipo y materiales que se utilizarán en la realización de los proyectos, de conformidad con su legislación nacional.

## **ARTÍCULO X**

### **Mecanismo de Seguimiento**

Para lograr las mejores condiciones de aplicación del presente Acuerdo, las Partes designarán a un representante por cada una de Ellas, quienes fungirán como coordinadores del seguimiento de las actividades de cooperación a que se refiere el presente Acuerdo.

Para lograr las mejores condiciones de aplicación del presente Acuerdo, las Partes establecerán un Grupo de Trabajo o Comisión Mixta o Comité.

Los coordinadores formularán informes sobre los avances obtenidos, y los harán del conocimiento de sus respectivas Cancillerías, así como de las instancias bilaterales que estimen pertinentes.

## **ARTÍCULO XI**

### **Relación Laboral**

El personal comisionado por cada una de las Partes para llevar a cabo actividades de cooperación continuará bajo la dirección y dependencia de la institución a la que pertenece, por lo que no se crearán relaciones de carácter laboral con la Otra, a la que no se considerará patrón sustituto o solidario.

## **ARTÍCULO XII**

### **Entrada y Salida de Personal**

Las Partes gestionarán ante sus autoridades correspondientes, todas las facilidades para la entrada, permanencia y salida de los participantes que en forma oficial intervengan en las actividades de cooperación que se deriven del presente Acuerdo. Estos participantes se someterán a las disposiciones migratorias, fiscales, aduaneras, sanitarias y de seguridad nacional vigentes en el país receptor y no podrán dedicarse a ninguna actividad ajena a sus funciones sin la previa autorización de las autoridades competentes en esta materia. Los participantes dejarán el país receptor, de conformidad con las leyes y disposiciones del mismo.

## **ARTÍCULO XIII**

### **Seguros**

Las Partes se asegurarán de que su personal participante en las actividades de cooperación cuente con seguro médico, de daños personales y de vida, a efecto de que, en caso de un siniestro resultante de su desarrollo, que amerite reparación del daño o indemnización, ésta sea cubierta por la institución de seguros correspondiente.

## **ARTÍCULO XIV**

### **Responsabilidad Civil**

Las Partes no tendrán responsabilidad civil por daños y perjuicios que pudieran causarse como consecuencia del caso fortuito o fuerza mayor, particularmente por paro de labores académicas o administrativas.

## **ARTÍCULO XV**

### **Otros Instrumentos**

La cooperación en el marco del presente Acuerdo se llevará a cabo sin perjuicio de los derechos y obligaciones que las Partes hayan adquirido en virtud de otros acuerdos internacionales de los que sean Parte.

## **ARTÍCULO XVI**

### **Solución de Controversias**

Cualquier diferencia derivada de la interpretación o aplicación del presente Instrumento, será resuelta por las Partes de común acuerdo.

## **ARTÍCULO XVII**

### **Disposiciones Finales**

El presente Acuerdo entrará en vigor a partir de la fecha de su firma y después y condicionado a la aprobación por parte del Concejo Municipal de la Ciudad de de Pueblo a través de una Ordenanza aprobatoria del presente Acuerdo y continuará vigente por un período de cinco (5) años, prorrogable por períodos de igual duración, previa evaluación, a menos que cualquiera de las Partes manifieste su decisión de darlo por terminado, mediante comunicación escrita dirigida a la Otra, con seis (6) meses de antelación.

El presente Acuerdo podrá ser modificado por mutuo consentimiento de las Partes, formalizado a través de comunicaciones escritas, en las que se especifique la fecha de entrada en vigor.

La terminación anticipada del presente Acuerdo no afectará la conclusión de las actividades de cooperación que hubieran sido formalizadas durante su vigencia.

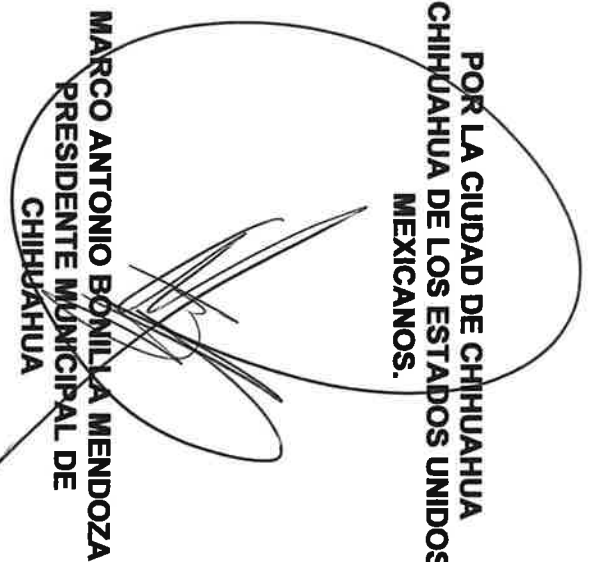
Firmado en la Ciudad de Chihuahua, Chihuahua el 9 junio del dos mil veintitrés, en dos ejemplares originales en idioma español e inglés, siendo ambos textos igualmente auténticos.

**POR LA CIUDAD DE PUEBLO  
COLORADO DE LOS ESTADOS UNIDOS  
DE AMÉRICA**



**NICHOLAS A. GRADISAR  
PRESIDENTE MUNICIPAL DE  
PUEBLO**

**POR LA CIUDAD DE CHIHUAHUA  
CHIHUAHUA DE LOS ESTADOS UNIDOS  
MEXICANOS.**



**MARCO ANTONIO BÓNILLA MENDOZA  
PRESIDENTE MUNICIPAL DE  
CHIHUAHUA**



**Background Paper for Proposed  
Resolution**

**COUNCIL MEETING DATE:** June 26, 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 PUEBLO FRIENDS OF THE ARKANSAS RIVER IN THE AMOUNT OF \$250 TO SPONSOR THE SUMMER SOLSTICE FESTIVAL AND LANTERN PARADE ON JUNE 17, 2023 AT 4 PM AT RUNYON LAKE

**SUMMARY:**

A Resolution authorizing payment from the council contingencies account in the 2023 general fund budget to Pueblo Friends of the Arkansas River in the amount of \$250 to sponsor the Summer Solstice Festival and Lantern Parade on June 17, 2023 at 4 pm at Runyon Lake.

**PREVIOUS COUNCIL ACTION:**

Council supported PFAR's solstice events in 2022.

**BACKGROUND:**

Pueblo Friends of the Arkansas River, PFAR, is a volunteer-run, non-profit 501(c)3 organization. Their mission and vision is "to enhance and maintain the beauty, accessibility, and integrity of the Arkansas River corridor in Pueblo."

The event features live music, over 35 artisan booths, a beer garden, local educational booths, 6-8 food trucks, and an enchanting Lantern Parade around the lake in the evening led by the Pueblo Cruisers on their illuminated bikes. Last year's event drew at least 900 people during the event and they expect the same this year.

**FINANCIAL IMPLICATIONS:**

Funds in the amount of \$250 would be paid from the Council Contingencies Account in the 2023 General Fund Budget to Pueblo Friends of the Arkansas River.



**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. PFAR summer solstice sponsor form 2023 Updated
2. 2023 Contingencies (Council) PFAR Summer Solstice

RESOLUTION NO. 15290

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO PUEBLO FRIENDS OF THE ARKANSAS RIVER IN THE AMOUNT OF \$250 TO SPONSOR THE SUMMER SOLSTICE FESTIVAL AND LANTERN PARADE ON JUNE 17, 2023 AT 4 PM AT RUNYON LAKE

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$250 from the Council Contingencies Account in the 2023 General Fund Budget is authorized to be paid to Pueblo Friends of the Arkansas River to sponsor the Summer Solstice Festival and Lantern Parade on June 17, 2023, at 4 pm at Runyon Lake.

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 effectuate the policies and procedures described herein.

SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: June 26, 2023

BY: Vicente Martinez Ortega

\_\_\_\_\_  
MEMBER OF CITY COUNCIL

APPROVED: \_\_\_\_\_  
PRESIDENT OF CITY COUNCIL

ATTESTED BY: \_\_\_\_\_  
CITY CLERK



**Background Paper for Proposed  
Resolution**

**COUNCIL MEETING DATE:** June 26, 2023

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**VIA:** Marisa Stoller, City Clerk

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**BACKGROUND:**

Pueblo Friends of the Arkansas River, PFAR, is a volunteer-run, non-profit 501(c)3 organization. Their mission and vision is "to enhance and maintain the beauty, accessibility, and integrity of the Arkansas River corridor in Pueblo."

The event features live music, over 35 artisan booths, a beer garden, local educational booths, 6-8 food trucks, and an enchanting Lantern Parade around the lake in the evening led by the Pueblo Cruisers on their illuminated bikes. Last year's event drew at least 900 people during the event and they expect the same this year.

**FINANCIAL IMPLICATIONS:**

Funds in the amount of \$250 would be paid from the Council Contingencies Account in the 2023 General Fund Budget to Pueblo Friends of the Arkansas River.

**BOARD/COMMISSION RECOMMENDATION:**

None.

**STAKEHOLDER PROCESS:**

None.

**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. PFAR summer solstice sponsor form 2023 Updated
2. 2023 Contingencies (Council) PFAR Summer Solstice

RESOLUTION NO. 15290

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO PUEBLO FRIENDS OF THE ARKANSAS RIVER IN THE AMOUNT OF \$250 TO SPONSOR THE SUMMER SOLSTICE FESTIVAL AND LANTERN PARADE ON JUNE 17, 2023 AT 4 PM AT RUNYON LAKE

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$250 from the Council Contingencies Account in the 2023 General Fund Budget is authorized to be paid to Pueblo Friends of the Arkansas River to sponsor the Summer Solstice Festival and Lantern Parade on June 17, 2023, at 4 pm at Runyon Lake.

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 effectuate the policies and procedures described herein.

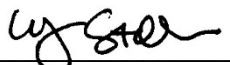
SECTION 3.

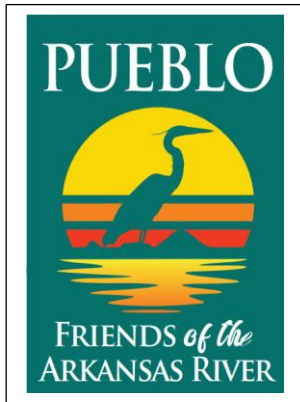
This Resolution shall become effective upon passage and approval.

INTRODUCED: June 26, 2023

BY: Vicente Martinez Ortega  
MEMBER OF CITY COUNCIL

APPROVED:   
PRESIDENT OF CITY COUNCIL

ATTESTED BY:   
CITY CLERK



## **Celebrate Summer Solstice on the Arkansas River!**

**Family Friendly \* River and Trail Activities \* Local Vendors \*  
Food Trucks \* Beer/Wine \* Music  
Don't Miss The Fun!**

**SATURDAY, JUNE 17, 4 PM - 10 PM  
SUMMER SOLSTICE FESTIVAL & LANTERN PARADE**

**Runyon Lake, along NE lake trail**

Thank you for your interest in being a sponsor of the Pueblo Summer Solstice Festival & Lantern Parade. Due to the generosity of sponsors, this event, inaugurated at the tail end of the pandemic is alive and kicking! THANK YOU!

Pueblo Friends of the Arkansas River, PFAR, is a volunteer run, non-profit 501(c)3 organization. Our mission and vision is “to enhance and maintain the beauty, accessibility, and integrity of the Arkansas River corridor in Pueblo.” To bring greater awareness to this asset and the opportunities it affords our community and visitors we will be hosting our second Summer Solstice Festival. We hope you will join us as a sponsor in celebrating the longest day of the year!

Community sponsors are the primary source of funding for this event and will help ensure its success. You can provide support in the following ways:

- Be a Co-Sponsor or Event Supporter through a monetary donation. Your company logo will be placed on materials to promote the event – see details below.
- Participate on our planning committee.
- Volunteer at the event.
- Sponsor or host an event

Current programming for the day includes

- walking/biking/enjoying the new trail and bridge
- listening to a variety of Pueblo's musical talent in the open air
- watching kayakers, boarders, and others in the water
- picking up a few tips on fly fishing, biking, hiking, and walking
- buying locally produced arts and crafts
- learning about wildlife in and along the river
- having the opportunity to treat yourself, family and friends to Pueblo's finest food truck offerings as well as beverages, including beer and wine.

All this along the northeast Runyon Lake trail! You don't want to miss the fun!

## Will your business/organization consider being a host sponsor?

### Check the opportunities and Benefits to you:

**Constellation - \$500** includes hanging your large banner on the levee trail fence, your name on posters, brochures, and the Friends Facebook page. Plus some free beer tickets! You are also entitled to a prime space to use as you wish at the festival – whether it's to advertise your business, sell your products, host an activity or just bring a tent for a shady place to relax!

**Shining Star - \$250 level** includes hanging your banner on the levee trail fence, space for your tent, name on posters, brochures, and the Friends Facebook page.

**Shooting Star - \$100 level** includes a space for your tent, name promoted on Friends Facebook page.

**Protostar Star – In kind donation** of printed marketing materials, water for Performers and Volunteers, Generators and Electrical Distributors, Signage, Storage, Infrastructure, etc., are integral parts of the festival and we appreciate any and all contributions! As an in kind sponsor, you will receive acknowledgement on the marketing materials, our website and social media. For in kind donations exceeding \$500.00 worth of goods, you are entitled to a space at the festival.

## YES! Sign me up as a sponsor for the Summer Solstice 2023

\$500 level \_\_\_\_\_ \$250 level \_\_\_\_\_ \$100 level \_\_\_\_\_ In-kind \_\_\_\_\_

Business/organization name \_\_\_\_\_

Contact person: \_\_\_\_\_

Email: \_\_\_\_\_ Phone #: \_\_\_\_\_

Address: \_\_\_\_\_

### Send check to:

Pueblo Friends of the Arkansas River  
c/o Daniel Muldoon  
2727 N. Elizabeth Street  
Pueblo, CO 81003

Tax ID #88-2256789 and is tax exempt

To be included in the marketing and promotional material the deadline is May 10, 2023

Questions? Contact Carla Hendrickson, 719 583 1633 (h)

[illegible]





**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 12, 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 TO ESTABLISH PROJECT NO. WW2304, BUDGETING AND APPROPRIATING \$1,029,328 FROM PROJECT NO. WW9999 TO PROJECT NO. WW2304 AND APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF \$1,029,328 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BROWN AND CALDWELL, INC., FOR CONSULTING ENGINEERING SERVICES WITH RESPECT TO THE SECONDARY CLARIFIERS PROJECT.

**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 three secondary clarifiers

**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 with respect to constructing three new clarifiers to comply with the conditions in the dewatering permit for the James D. Dilorio Water Reclamation Facility wells. The groundwater that is discharged from the wells has high concentrations of selenium and manganese. The new clarifiers will be built above the ground water level, so when maintenance is done on the clarifiers the groundwater does not have to be pumped down by the wells. The design will be used to apply for funding for this project both through the state revolving fund program and the federal WIFIA (Water Infrastructure Finance and Innovation Act) program.

**FINANCIAL IMPLICATIONS:**

The cost of the agreement with Brown and Caldwell to provide design services for the rehabilitation project will not exceed \$1,029,328. Funds will be appropriated from Projects to be Determined No. WW9999 to Project No. WW2304 from the Sewer Use Fund.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable

**STAKEHOLDER PROCESS:**

None

**ALTERNATIVES:**

The no-action alternative would cause the James R. Dilorio Water Reclamation Facility to be out of compliance with the dewatering permit and the State of Colorado to enforce the facility with fines and other penalties.

**RECOMMENDATION:**

Approval of the Ordinance.

**ATTACHMENTS:**

1. 06-12-23 Secondary clarifier project agreement

## ORDINANCE NO. 10485

AN ORDINANCE TO ESTABLISH PROJECT NO. WW2304, BUDGETING AND APPROPRIATING \$1,029,328 FROM PROJECT NO. WW9999 TO PROJECT NO. WW2304 AND APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF \$1,029,328 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BROWN AND CALDWELL, INC., FOR CONSULTING ENGINEERING SERVICES WITH RESPECT TO THE SECONDARY CLARIFIERS PROJECT.

WHEREAS, the Pueblo Wastewater Department operates a Water Reclamation Facility and collection system providing municipal wastewater treatment;

WHEREAS, consulting engineering services are required with respect to the design of three secondary clarifiers at the James R. Dilorio Water Reclamation Facility;

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. Provide design specifications for the secondary clarifier project
2. Funding Support for both SRF and WIFIA

### 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. WW9999 to be appropriated to project No. WW2304

**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 June 12, 2023.

Final adoption of Ordinance by City Council on June 26, 2023.



\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☒ Approved on June 29, 2023.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



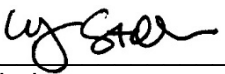
\_\_\_\_\_  
Mayor

**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

**AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES  
BY AND BETWEEN  
CITY OF PUEBLO  
AND  
BROWN AND CALDWELL, INC.**

THIS AGREEMENT made and entered this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by and between the City of Pueblo, a Municipal Corporation (hereinafter "Owner") and Brown and Caldwell, Inc., a California Corporation, 1697 Cole Boulevard, Golden, Colorado 80401, a professional engineering firm (hereinafter "Engineer") for Engineer to render certain professional engineering and related services for Owner in connection with **18-087 Wastewater Department Engineer of Record – Secondary Clarifier Improvements**, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

**SECTION 1. GENERAL.**

1.1 Engineer shall satisfactorily perform professional engineering and/or construction management] services for all phases of Project indicated below by mark placed in the appropriate box or boxes:

- [ n/a ] - Study and Report Phase
- [ x ] - Preliminary Design (Schematic) Phase
- [ n/a ] - Final Design Phase
- [ n/a ] - Construction Documents & Bidding Phase
- [ n/a ] - Construction Phase

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

Such services shall include all usual and customary professional engineering services and the furnishing (directly or through its professional consultants) of customary and usual civil, structural, mechanical, electrical engineering, environmental, architectural, construction management and planning services as generally stated herein and as more specifically set forth in Schedule 1. Engineer shall also provide any landscape engineering, architectural, surveying and geotechnical services incident to its work on the Project.

1.2 In performing the professional services, Engineer shall complete the work items described in Schedule 1 – Scope of Services and as generally identified in Section 2 of this Agreement which are applicable to each phase for which Engineer is to render professional services. In the event of a conflict, the Scope of Services set forth in Schedule 1 shall prevail.

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

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

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

## SECTION 2. ENGINEERING SERVICES.

2.1 Study and Report Phase. If Engineer is to provide professional services with respect to the Project during the Study and Report Phase, Engineer shall perform the following unless otherwise indicated in the attached Scope of Service (Schedule 1):

- (a) Consult with Owner to determine his requirements for the Project and review available data.
- (b) Advise Owner as to the necessity of his providing or obtaining from others data or services of the types described in paragraph 2.2(c), and assist Owner in obtaining any such services.
- (c) Provide special analyses of Owner's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.
- (d) Identify and analyze requirements of governmental authorities and regulatory agencies involved in approval or permitting any aspect of Project.
- (e) Provide general economic analysis of Owner's requirements applicable to various alternatives.
- (f) Prepare a Report with appropriate exhibits indicating clearly the considerations involved and the alternative solutions available to Owner, and setting forth Engineer's findings and recommendations with opinions of probable costs.
- (g) Furnish three (3) copies of the Report and present and review it in person with Owner.

2.2 Preliminary Design (Schematic) Phase. If Engineer is to provide professional services with respect to the Project during the Preliminary Design Phase, Engineer shall perform the following unless otherwise indicated in the attached Scope of Service (Schedule 1):

- (a) Consult with Owner and determine the general design concept and Project requirements based upon information furnished by Owner as well as any study Report on the Project.
- (b) Prepare and submit to Owner preliminary design documents consisting of final design criteria, preliminary drawings, an outline of specifications, and written descriptions of all significant features of Project.
- (c) Prepare and submit to Owner a requirements checklist of any subsurface investigation, additional data, permits, or other information and requirements which is anticipated will be necessary for the design or construction of Project.
- (d) Provide written disclosure to Owner of significant design assumptions and design risks and advantages/disadvantages inherent in or presented by design alternatives and make recommendations to Owner based thereon.
- (e) Prepare and submit to Owner a preliminary cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, costs of land and rights of way, compensation for damages and finance costs, if any.
- (f) Engineer shall furnish three (3) copies of each above referenced submittal document to Owner for Owner's use, and shall review same in person with Owner.

2.3 Final Design Phase. If Engineer is to provide professional services with respect to the Project during the Final Design Phase, Engineer shall perform the following unless otherwise indicated in the attached Scope of Service (Schedule 1):

(a) After consultation with the Owner, receipt of Owner's selection of any design options and review of the Preliminary Design Documents, if any, prepare and submit to Owner final Drawings showing the scope, extent and character of the work to be performed by contractors, and Specifications describing such work and the requirement therefor. Such plans and Specifications shall comply with all applicable building codes and requirements of regulatory agencies having any approval authority. Final design, including Drawings and Specifications, shall also comply with ADA Accessibility Guidelines (ADAAG) Manual developed by the U. S. Architectural and Transportation Barriers Board (1998) or ADA Standards for Accessible Design published at 28 C.F.R. Part 36, Schedule 1, whichever is applicable. Engineer **shall include an attest statement on each record drawing sheet of final plan drawings that certifies compliance with either the ADAAG Manual or 28 CFR Part 36 Standards.**

(b) Make reasonable revisions to the Drawings and Specifications requested by Owner, informing the Owner of any change in probable construction costs as a result of such revisions.

(c) Provide technical criteria, written descriptions and design data for Owner's use, and disclose any significant risks and advantages/disadvantages inherent in or presented by design choices.

(d) Based upon Engineer's professional judgment, prepare and submit to Owner a current detailed cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, land and right of way costs, damages and finance costs, if any.

(e) Engineer shall furnish three (3) copies of each above referenced submittal document to Owner for Owner's use, and shall review same in person with Owner.

2.4 Construction Documents & Bidding Phase. If Engineer is to provide professional services with respect to the Project during the Construction Documents & Bidding Phase, Engineer shall perform the following unless otherwise indicated in the attached Scope of Service (Schedule 1):

(a) Prepare and submit to Owner draft forms of contract agreement, general and special conditions, bid forms invitations to bid, information for bidders, forms of warranty and including any special requirements imposed upon such contracts by any federal or other funding source and by any regulatory agency. In preparing such draft forms, Engineer shall consider and incorporate, to the extent both advisable and feasible, owner's standard forms of agreement, warranty, payment and performance bonds, general conditions and selected specifications.

(b) After review and comment by Owner, prepare and submit all deliverables identified in Schedule 1 to this Agreement, final forms of contract agreement, general and special conditions, Drawings, specifications, bid forms, invitations to bid, information for bidders, and forms of warranty, together with any Addenda which may be required or appropriate to correct errors, clarify Drawings or Specifications or advise of changes. Three (3) copies of these final bid documents shall be furnished to Owner. Unless otherwise specified in Schedule 1, a copy of all contract documents and drawings shall also be submitted to Owner in Microsoft Word and AutoCAD (2013 or later version) format on electronic media.

(c) Make recommendations to Owner concerning the need for prequalification of equipment, vendors or bidders, and, if requested by Owner, incorporate prequalification requirements in final bid and construction contract documents.

(d) Attend a pre-bid conference with bidders to discuss Project requirements and receive requests for clarification, if any, to be answered by Engineer in writing to all plan holders.

(e) Consult with and make recommendations to Owner concerning: acceptability of bidders, subcontractors, suppliers, materials, equipment, suitability of proposed "or equals", amount of bids and any other matter involved in consideration and review of bids and bidders upon which Owner may reasonably request Engineer's advice.



(f) Prepare and periodically update a Project Schedule for Owner's review and acceptance, which shall include the schedule for the performance of the Engineer's services and a construction schedule for the components of the work, including phasing of construction, and times for commencement and completion of the several construction contracts. In the Project Schedule, the Engineer shall coordinate and integrate the Engineer's services and the Owner's responsibilities with anticipated construction schedules, highlighting critical and long lead times.

(g) Provide recommendations and information to Owner regarding the allocation of responsibilities for safety programs among contractors.

(h) Advise the Owner on Engineer's recommended division of the Project construction work into individual categories or work and separate contracts, and make recommendations as required so that the work of the several contractors is coordinated, all responsibilities have been assigned to the appropriate contract, the likelihood of jurisdictional disputes has been minimized and proper coordination has been provided for phased construction.

2.5 Construction Phase. If Engineer is to provide professional services with respect to the Project during the Construction Phase, after award by the Owner of a general contractor contracts for construction of the Project, Engineer shall perform the following unless otherwise indicated in the attached Scope of Service (Schedule 1):

I. Engineering Functions.

(a) Perform all duties and functions to be performed by Engineer under the terms of the construction contract.

(b) Visit the Project site, perform observations as to the progress and quality of the work and advise the Owner as to same. The frequency and level of observation shall be commensurate with the nature of the work and size of the Project, except that any specific provisions set forth in Schedule 1 - Scope of Services concerning the level of observation shall determine Engineer's obligation concerning level of observation.

(c) Make determinations as to whether the work is proceeding in general accordance and compliance with the construction contract documents.

(d) Promptly advise the Owner in writing of any observed omissions, substitutions, defects or deficiencies noted in the work of any contractor, subcontractor, supplier or vendor on the Project.

(e) Reject any work on the Project that does not conform to the contract documents.

(f) On request of the Owner, the construction contractor or any subcontractor on the Project, issue written interpretations as to the Drawings and Specifications and requirements of the construction work.

(g) Review shop drawings, samples, product data and other submittals of the contractor for general conformance with the design concept of Project and compliance with the Drawings, Specifications and all other contract documents, and indicate to Contractor and Owner with respect thereto, any exceptions noted, or modification or resubmittals required.

(h) Review all applications of Contractor for payment and in connection with same, issue certificates for payment to the Owner for such amounts as are properly payable under the terms of the construction contract. Each such certificate shall constitute Engineer's representation to Owner that he has made periodic observations of the Project during construction and that to the best of his knowledge, the work for which payment has been sought has been completed by Contractor in general accordance with the Drawings, Specifications and other contract documents.

(i) Subject to written concurrence by Owner, promptly render a written recommendation to Owner concerning all proposed substitutions of material and equipment.

(j) Draft, for Owner's consideration, and offer recommendations upon, all proposed change orders and contract modifications.

(k) On application for final payment by the Contractor, make a final inspection of the Project, assembling and delivering to the Owner any written guaranties, instructions manuals, as-built drawings, diagrams and charts required by the contract documents, and issuing a certificate of final completion of the Project.

(l) The Engineer shall, if so provided in the construction contract, be the interpreter of the construction documents and arbiter of claims and disputes thereunder. Upon written request of the Owner or Contractor, the Engineer shall promptly make written interpretations of the contract documents and render written decisions on all claims, disputes and other matters relating to the execution or progress of the work on the Project. The interpretations and decisions of the Engineer shall be final and binding on the Contractor and Owner, unless the Director of the Wastewater Department of the Owner shall, within seven calendar days after receipt of the Engineer's interpretation or decision, file his written objections thereto with the Engineer and Contractor.

## II. Construction Management Functions by Engineer.

(a) Perform all duties and functions specifically identified to be performed by the Construction Manager under the terms of the construction contracts, if any.

(b) Provide administrative, management and related services to coordinate scheduled activities and responsibilities of the construction contractors with each other and with the Owner and the Engineer, including monitoring agreed-upon budgets and the Project Schedule based upon the executed Contract Documents.

(c) Schedule and conduct meetings to discuss such matters as procedures, progress and scheduling. Engineer shall prepare and promptly distribute minutes of the meetings to the Owner and Contractors.

(d) Update the Project construction schedule incorporating the activities of the Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of shop drawings, product data and samples, and delivery of items requiring long lead time and procurement. The Project construction schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. Engineer shall update the Project construction schedule as needed to show current conditions. If any update indicates that the previously approved Project construction schedule may not be met, Engineer shall recommend corrective action to Owner.

(e) Consistent with the various bidding and contract documents, coordinate the sequence of construction and assignment of space in areas where contractors are or will be performing work.

(f) Observe performance of the contractors and recommend courses of action to the Owner when requirements of any contract are not being fulfilled.

(g) Monitor the approved estimate of construction cost for the Project, and show actual costs for activities in progress and estimates for uncompleted tasks by way of comparison with approved estimates. Advise the Owner of any variances between actual and estimated costs.

(h) Review the safety programs developed by each of the contractors solely for purpose of coordinating the safety programs with those of the other contractors. Engineer's responsibilities for coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the contractors, subcontractors or others not directly employed by Engineer, including any health or safety programs and precautions required by such construction work. Engineer has no duty to inspect, observe, correct or report on health or safety deficiencies of the contractors.

(i) Schedule and coordinate the sequence of construction by and among the contractors in accordance with the contract documents and the latest approved Project construction schedule. Engineer's responsibility under this subsection shall not extend to direct control over or charge of the means, methods, techniques, sequences and procedures of any contractor necessary for completing all portions of the

construction work in accordance with the contract documents and any compliance with applicable laws and regulations.

(j) Maintain at the Project site for Owner one record copy of all contracts, plans, specifications, addenda, change orders, approved shop drawings, approved product data and approved submittals, and other documents in good order prepared in part on the basis of information compiled and furnished by others, and record drawings may not always represent the exact location, type of various components or exact manner in which Project was finally constructed, all of which shall be delivered to Owner upon completion of the Project or upon Owner's request. Engineer is not responsible for any errors or omissions in the information from others that are incorporated into the record drawings.

2.6 Additional Responsibilities. This paragraph applies to all phases of Engineer's work.

(a) Engineer shall be responsible for the professional quality, technical accuracy, timely completion and coordination of all of Engineer's work, including that performed by Engineer's consultants, and including designs, Drawings, Specifications, reports and other services, irrespective of Owner's approval or acquiescence in same. Engineer shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in his work in breach of applicable standards of care.

(b) Engineer shall be responsible, in accordance with applicable law, to Owner for all loss or damage to Owner to the extent caused by Engineer's negligent act or omission.

(c) Engineer's professional responsibility shall comply with the generally accepted standard of care applicable to the type of engineering and architectural and construction management services provided in effect at the time services are rendered and commensurate with the size, scope and nature of the Project.

(d) Engineer shall be completely responsible for the safety of Engineer's employees in the execution of work under this Agreement and shall provide all necessary safety equipment for said employees. Notwithstanding the foregoing, Engineer is not responsible for the health and safety duties of others, including compliance with health or safety programs and precautions.

(e) Engineer acknowledges that, due to the nature of engineering and related professional services and the impact of same on the Project, the Owner has a substantial interest in the personnel and consultants to whom Engineer assigns principal responsibility for services performed under this Agreement. Consequently, Engineer represents that Engineer has selected and intends to employ or assign the key personnel and consultants identified in Schedule 3 - "Identification of Personnel, Subcontractors and Task Responsibility", attached hereto for the Project assignments and areas of responsibility stated therein. Within 10 days of execution of this Agreement, Owner shall have the right to object in writing to employment on the Project of any such key person, consultant or assignment of principal responsibility, in which case Engineer will employ alternate personnel for such function or reassign such responsibility to another to whom Owner has no reasonable objection. Thereafter, Engineer shall not assign or reassign Project work to any person to whom Owner has reasonable objection.

Within 5 days of execution of this Agreement, Engineer shall designate in writing a Project representative who shall have complete authority to bind Engineer, and to whom Owner should address communications.

(f) Promptly after execution of this Agreement and upon receipt of authorization from Owner to proceed, Engineer shall submit to Owner for approval a schedule showing the order in which Engineer proposes to accomplish his work, with dates on which he will commence and complete each major work item. The schedule shall provide for performance of the work in a timely manner so as to not delay Owner's timetable for achievement of interim tasks and final completion of Project work, provided however, the Engineer will not be responsible for delays beyond his control.

(g) Before undertaking any work which Engineer considers beyond or in addition to the scope of work and services which Engineer has contractually agreed to perform under the terms of this Agreement, Engineer shall advise Owner in writing (i) that Engineer considers the work beyond the scope of this Agreement, (ii) the reasons the Engineer believes the out of scope or additional work should be performed,

and (iii) a reasonable estimate of the cost of such work. Engineer shall not proceed with such out of scope or additional work until authorized in writing by Owner. The compensation for such authorized work shall be negotiated, but in the event the parties fail to negotiate or are unable to agree as to compensation, then Engineer shall be compensated for his direct costs and professional time at the rates set forth in Schedule 2 - "Fee Schedule".

### SECTION 3. OWNER'S RESPONSIBILITIES

#### 3.1 Owner shall:

(a) Designate a representative to whom all communications from Engineer shall be directed and who shall have limited administrative authority on behalf of Owner to receive and transmit information and make decisions with respect to Project. Said representative shall not, however, have authority to bind Owner as to matters of legislative or fiscal policy.

(b) Advise Engineer of Owner's Project requirements including objective, project criteria, use and performance requirements, special considerations, physical limitations, financial constraints, and required construction contract provisions and standards.

(c) Provide Engineer with available information pertinent to the Project including any previous reports, studies or data possessed by Owner which relates to design or construction of the Project. Engineer shall rely on information provided without verification unless otherwise agreed to in Schedule 1. Owner shall notify of any known or potential health or safety hazards existing at or near the project site.

(d) Arrange for Engineer to have access to enter private and public property as required for Engineer to perform his services.

(e) Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by Engineer, and render written decisions pertaining thereto within a reasonable time. The Owner's approval of Drawings, design, Specifications, reports and incidental engineering work or materials furnished hereunder shall not in any way relieve the Engineer of responsibility for the professional adequacy of his work. The Owner's review, approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

(f) Upon advice of the necessity to do so from Engineer, obtain required approvals and permits for the Project. The Engineer shall provide all supportive documents and exhibits necessary for obtaining said approvals and permits.

(g) Notify Engineer whenever Owner becomes aware of any substantial development or occurrence which materially affects the scope or timing of Engineer's services.

(h) If Engineer's scope of work includes services during construction, Owner will approve acceptable draft language prepared by Engineer for inclusion in Owner's contract with the construction contractor which require the construction contractor to indemnify and hold harmless Engineer, its officers, employees, agents, and consultants against claims, suits, demands, liabilities, losses, damages, and costs, including reasonable attorneys' fees and all other costs of defense, arising out of the performance of the work of the contractor, breach of contract, or willful misconduct of the contractor or its subcontractors, employees, and agents.

Owner will approve acceptable draft language prepared by Engineer for inclusion in Owner's contract with the construction contractor which require (a) the contractor to name Engineer, its directors, officers and employees as additional insureds on the contractor's general liability insurance and/or Owner's and Contractor's Protective policy (OCP), and any builder's risk, or other property insurance purchased by Client or the contractor to protect work in progress or any materials, supplies, or equipment purchased for

installation therein; and (b) the contractor to furnish contractor's certificates of insurance evidencing that Engineer, its officers, employees, agents, and consultants are named as additional insureds on contractor's general liability and property insurance applicable to the Project. Contractor's policies shall be primary and any such insurance carried by the Engineer shall be excess and noncontributory. The certificates shall provide that Engineer be given 30 days' written notice prior to any cancellation thereof.

(i) Owner shall perform its obligations and render decisions within a reasonable time under the presented circumstances. However, given the nature of Owner's internal organization and requirements, a period of 14 days shall be presumed reasonable for any decision not involving policy decision or significant financial impact. A period of 45 days shall be presumed reasonable for Owner to act with respect to any matter involving policy or significant financial impact.

#### SECTION 4. TIME FOR PERFORMANCE.

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

#### SECTION 5. PAYMENT.

5.1 Owner will pay to Engineer as full compensation for all services required to be performed by Engineer under this Agreement, except for services for additional work or work beyond the scope of this Agreement, an amount not to exceed \$300,000.00 in the aggregate, and not to exceed those maximum amounts set forth in Schedule 2 - "Fee Schedule" and computed in accordance with this Section. In the event compensation for services is set forth in Schedule 2 as to each phase of work indicated in Section 1.1 of this Agreement, the maximum amount of compensation for any phase shall not exceed the amount specified in Schedule 2 for such phase.

5.2 Engineer shall submit periodic, but not more frequently than monthly, applications for payment, aggregating to not more than the maximum amount, for actual professional services rendered and reimbursable expenses incurred. Such applications shall be submitted with appropriate documentation that such services have been performed and expenses incurred. Thereafter, Owner shall pay Engineer for the amount of the application within 30 days of the date of billing, provided that sufficient documentation has been furnished. With respect to construction phase services, Owner will not be required to pay more than 90% of the maximum amount unless the Engineer's services have been completed to Owner's reasonable satisfaction and all required Engineer submittals have been provided.

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

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

5.5 No compensation shall be paid to Engineer for services required and expenditures incurred in correcting Engineer's negligent errors or omissions.

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

#### SECTION 6. TERMINATION.

6.1 The Owner reserves the right to terminate this Agreement and Engineer's performance hereunder, at any time upon 10 days written notice, either for cause or for convenience. Upon such termination, Engineer shall cease all work and stop incurring expenses, and shall promptly deliver to the Owner all data, Drawings, Specifications, reports, estimates, calculations, summaries and all other information, and materials as Engineer may have accumulated in performing this Agreement, together with all finished work and work in progress.

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

6.3 In the event termination of this Agreement or Engineer's services is for breach of this Agreement by Engineer, or for other fault of Engineer including but not limited to any failure to timely proceed with work, or to pay its employees and consultants, or to perform services with that level of care and skill ordinarily exercised by professional Engineers or to perform work in a manner deemed satisfactory by Owner's Director of Public Works, then in that event, Engineer's entire right to compensation shall be limited to payment at the rates specified in Schedule 2 for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.

6.4 Engineer's professional responsibility for his completed work and services shall survive any termination.

## SECTION 7. GENERAL PROVISIONS.

7.1 Ownership of Documents. All designs, Drawings, Specifications, technical data, and other documents or instruments procured or produced by the Engineer in the performance of this Agreement ("Work Product") shall be the sole property of the Owner upon payment to Engineer therefore and the Owner is vested with all rights therein of whatever kind and however created, whether created by common law, statutory law, or by equity. The Engineer agrees that the Owner shall have access at all reasonable times to inspect and make copies of all notes, designs, drawings, specifications, and all other technical data pertaining to the work to be performed under this Agreement. In the event Owner uses the designs, Drawings or Specifications provided hereunder for another project independent from Project, without adaptation by Engineer, Owner shall hold harmless and indemnify Engineer from all loss, claims, injury and judgments arising from the use of such designs, Drawings or Specifications for such other project. In no event shall Engineer publish its Work Product developed pursuant to this Agreement except (i) with advance, written consent of Owner, which consent may be granted or withheld in Owner's sole and absolute discretion and (ii) in full compliance with the requirements of this Agreement and applicable federal regulations.

### 7.2 Insurance and Indemnity.

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

(b) The minimum insurance coverage which Engineer shall obtain and keep in force is as follows:

(i) Workers' Compensation Insurance complying with statutory requirements in Colorado and in any other state or states where the work is performed. The Workers' Compensation insurance policy shall contain an endorsement waiving subrogation against the Owner.

(ii) Commercial General and Automobile Liability Insurance with limits not less than One Million and No/100 Dollars (\$1,000,000.00) per occurrence for personal injury, including but not limited to death and bodily injury, and One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00) for excess umbrella liability.

(iii) Professional Liability Insurance with coverage of not less than \$1,000,000.00 covering claims arising from the negligent acts, errors or omissions in the services performed by

Engineer for Owner under this Agreement. This policy shall provide coverage for all professionals providing services under this Agreement by or through the Engineer, including coverage for Engineer's activities performed in both its engineering and construction manager capacities.

(c) Engineer agrees to hold harmless, defend and indemnify Owner from and against any liability to third parties, to the extent caused by the negligent acts, errors or omissions of Engineer, his employees, subcontractors and consultants.

7.3 Notices. Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to either the Owner or the Engineer by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of such personal service when deposited in the United States mail, first-class postage prepaid, addressed to the Owner, City of Pueblo Department of Wastewater, Attention: Andra Ahrens, Director, 1300 S. Queens Avenue, Pueblo, Colorado 81001,, or to the Engineer, Brown and Caldwell, Inc., at the address listed above. Either party may change his address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in this paragraph.

7.4 Entire Agreement. This instrument contains the entire agreement between the Owner and the Engineer respecting the Project, and any other written or oral agreement or representation respecting the Project or the duties of either the Owner or the Engineer in relation thereto not expressly set forth in this instrument is null and void. In the event of any conflict between any provision of this Agreement and a provision of any Appendix or attachment to this Agreement, the provision in the Appendix or attachment shall control and supersede the conflicting provision in this Agreement.

7.5 Successors and Assigns. This Agreement shall be binding on the parties hereto and on their partners, heirs, executors, administrators, successors, and assigns; provided, however, that neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to the Engineer may be assigned by him without the written consent of the Owner. Notwithstanding the foregoing, if the authorized scope of work includes construction activities or the oversight of construction, Engineer may, at its discretion and upon notice to Owner, assign all of its contractual rights and obligations with respect to such activities or services to Brown and Caldwell Constructors, its wholly owned affiliate.

7.6 Amendments. No amendment to this Agreement shall be made nor be enforceable unless made by written Amendment signed by an authorized representative of Engineer and by Owner's authorized representative.

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

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

7.9 Severability. If any provision of this Agreement, except for Section 2.6, is determined to be directly contrary to and prohibited by law or the requirements of any federal grant or other Project funding source, then such provision shall be deemed void and the remainder of the Agreement enforced. However, it is the intent of the parties that Section 2 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 as of the time of any such determination this entire Agreement shall be void and terminated pursuant to the provisions of Section 6, without waiving any claims or defenses

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

7.11 Force Majeure. Neither party shall be responsible for delays caused by circumstances beyond its reasonable control including but not limited to governmental action, statute, ordinance, rule or regulation, strike or other labor troubles, fire, acts of God, or other incidents outside of either party's control that makes performance or acceptance impossible or impractical. The Consultant shall not be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is due to causes beyond its reasonable control created from any force majeure event.

#### SECTION 8. DISPUTES.

8.1 Any unresolved dispute or disagreement between Engineer and Owner arising from or relating to this Agreement or Engineer's services or right to payment hereunder shall be decided in a state court of competent jurisdiction located in Pueblo, Colorado.

#### SECTION 9. APPENDICES.

- 9.1 The following Appendices are attached to and made a part of this Agreement:
- Schedule 1 - Scope of Services consisting of 16 pages
  - Schedule 2 - Fee Schedule consisting of 1 page
  - Schedule 3 - Work Schedule consisting of 1 page

#### SECTION 10. ACCESSIBILITY.

The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility for first occupancy later than January 26, 1993, that does not meet the accessibility and usability requirements of the ADA except where an entity can demonstrate that it is structurally impractical to meet such requirements. The Engineer therefore, will use his or her best reasonable professional efforts in accordance with applicable standards of care to implement applicable ADA requirements and other federal, state and local laws, rules codes, ordinances and regulations as they apply to the Project. Notwithstanding, unless otherwise specified in the Scope of Services, Owner shall have sole responsibility as between Client and Consultant for compliance with the Americans With Disabilities Act ("ADA") 42 U.S.C. 12101 et. Seq. and the related regulations.

#### SECTION 11. COMPLIANCE WITH IMMIGRATION REFORM AND CONTROL ACT OF 1986.

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

#### SECTION 12. PERA LIABILITY

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

#### SECTION 13. ELECTRONIC SIGNATURE

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



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

CITY OF PUEBLO, A MUNICIPAL  
CORPORATION

BROWN AND CALDWELL, INC.

By \_\_\_\_\_  
Naomi Hedden, Purchasing Director

By \_\_\_\_\_  
Michael J. Thorstenson, Vice President

Attest \_\_\_\_\_  
Marisa Stoller, City Clerk

[ S E A L ]

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

\_\_\_\_\_  
Alexandria Romero, Finance Director

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert P. Jagger, City Attorney

Attachments:     Schedule 1 - Scope of Services  
                         Schedule 2 - Fee Schedule  
                         Schedule 3 – Work Schedule  
                         Additional Information for Agreement

## Scope of Work Summary

The project will involve the following improvements:

- Process modeling of the JRDWRF and secondary clarifier modeling to confirm number of units required for future flows and secondary clarifier configuration, such as launder type (inboard vs outboard), side water depth, and diameter.
- Modeling of plant hydraulics with new secondary clarifiers. Secondary clarifiers may be able to be installed at a higher elevation to help lower the amount of ballast required to resist groundwater uplift forces.
- Demolition of three existing secondary clarifiers.
- Demolition of RAS pump station, inclusive of electrical room housing motor control center and switchgears (items identified for replacement in 2010 Master Plan as Capital Improvement Project Electrical Phase 6).
- Construction of 4 secondary clarifiers, upon confirmation of number of units and configuration by process modeling.
- Construction of RAS pump station and associated electrical room.
- Replacement of existing SWGR-69, MCC-6900 and ACP-69.
- Replacement of the existing fiber optic communication cabling currently servicing the existing ACP-69 to the new pump station location. Fiber terminations are anticipated to be local to the ACP enclosure, similar to the existing network cabling.
- Re-routing existing buried infrastructure (e.g., duct banks to the UV building) out of the area of construction of the new clarifiers.
- Development of construction sequencing plan so that the required number of secondary clarifiers and the UV facility are in service throughout construction.
- Amendment of existing Site location approval.

## Pueblo WW Responsibility

Pueblo WW will provide BC all available and relevant information to aid in the design process. This includes, but is not limited to:

- Historical operational data from 2019 to date
- PDF files of all existing plant construction drawings
- Access to the plant site and facility to validate and verify existing conditions.
- Knowledgeable staff who can discuss operational and maintenance issues.

## Project Assumptions and Limitations

The following overall assumptions were made in the development of this Phase A Scope of Services:

1. This scope of work is based on the recommendation of Evaluation of Potential Dewatering Permit Compliance Alternatives Technical Memorandum (TM)
2. The Phase A work on this project is projected to commence in June 2023 and is targeted to be complete by October 2026. The schedule includes assumptions such as regulatory and Owner review times that are out of the control of BC.
3. The design approach will be based on interactive workshops for the first two major design deliverable (Interim Design Submittal and PER/30 Percent Design Decisions will be reached in the workshop setting



and summarized in the final version of the PER and/or documented and maintained in an issues/decision log. The PER/30 Percent design submittal will document major decisions. Alternatives analysis will be done during the PER/30 Percent design and will not be included in the Final Design. All other design decisions will be expedited between BC and Pueblo WW using workshops and direct communications and documented in the decision log.

4. The Pueblo WW project manager will compile and reconcile Pueblo WW staff comments on all BC deliverables. All project reviews and comment periods will be limited to 3 weeks to accommodate the project schedule. No value engineering is included in this scope.
5. The design will be based on federal, state, and local codes and standards in effect at the beginning of the project. Any changes in these codes may necessitate a change in scope and will be subject to renegotiation. The existing plant facilities are assumed to be in full compliance with current drainage, electrical, building, mechanical, plumbing, seismic, and other codes that apply to these types of facilities. Revisions and rehabilitation of existing plant facilities to achieve compliance with current codes are specifically excluded from this scope of work. The installing Contractor will prepare a building permit application for each building facility and respond to comments from Pueblo Building Services with modifications included in the Bid Document submittal. Pueblo WW will pay all permit fees.
6. The improvements for the included process areas will be designed together (using the traditional design-bid-build method) as part of a single package to be publicly bid as one project.
7. Design will be produced in the Autodesk suite of products using AutoCAD, AutoCAD Civil 3D, and Revit, based upon BC Document Production Standards (DPS), 2022 version. All drawings will be based on standard Size D, 22"x 34" paper. Electronic delivery format will be PDF.
8. Pueblo WW will seek various funding methods for this project. BC will support that effort as part of this scope of work. The project schedule reflects the timing of these funding requests. Pueblo WW pre-purchase of equipment is not anticipated for this project.
9. In providing opinions of probable cost, financial analyses, economic feasibility projections, and schedules for this project, BC has no control over cost or price of labor and materials; unknown or latent conditions of existing equipment or structures; competitive bidding procedures and market conditions; time or quality of performance by third parties; and other economic and operational factors that may materially affect the ultimate Project cost or schedule. Therefore, BC makes no warranty the City's actual Project costs, financial aspects, economic feasibility, or schedules will not vary from Consultant's opinions, analyses, projections, or estimates.
10. Pueblo WW will provide PDF files of all existing plant construction drawings. These drawings are considered record drawings and will be relied upon to be accurate for design purposes. Pueblo WW will provide to BC all data in City's possession relating to BC's services on this project. BC will reasonably rely upon the accuracy, timeliness, and completeness of the information provided by Pueblo. If provided documents are found to be erroneous in content, an adjustment to the work scope subject to renegotiation with Pueblo WW may be required.
11. BC is not responsible for additional effort that may be required for issues related to unknown conditions that may impact the design or construction.
12. The BC Project Manager, Design Manager, and up to four additional design engineers (discipline leads) will attend meetings with Pueblo WW. Meetings will be held virtually.
13. BC may shift budget between work phases or tasks as necessary to complete the work.
14. Fees associated with submittals, reviews, or applications which are required for project approvals, permitting or authorizations will be paid by the City and not included.



15. BC will specify but not design the pipe hangers and supports system, lightning systems, wiring termination drawings, control system software, hardware, SCADA system, loop drawings, interconnection diagrams, electrical coordination and short circuit/arc flash study, and applications programming system testing during the appropriate Phase of the project as needed.

The following table summarizes key assumptions for each of the major design disciplines.



| Discipline Area     | Key Scope Assumptions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Geotechnical        | <ul style="list-style-type: none"> <li>The foundation design of new or modified facilities will be based on geotechnical information obtained by Pueblo WW for this Project.</li> <li>In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect the project cost and/or execution. The conditions and cost/execution effects are not the responsibility of BC.</li> <li>New groundwater pumping facilities are not required.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Architectural       | <ul style="list-style-type: none"> <li>Building architecture (materials, construction) will be similar to existing structures.</li> <li>No landscape architect services will be required for this Project.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Civil               | <ul style="list-style-type: none"> <li>Dewatering during construction is the responsibility of the Contractor.</li> <li>Additional site security and fencing is not required.</li> <li>Existing topographical survey information and base mapping will be utilized for the design of new facilities and modifications of existing facilities.</li> <li>Surveying will be furnished by Pueblo WW, in accordance with generally accepted practice (expected services will include general location, construction baseline and benchmarks, pothole work, and water surface elevations). Deliverables will include electronic files, AutoCAD Civil 3D 2019 or newer.</li> <li>Additional topographical survey information to augment the existing base mapping will be identified by BC to be obtained by Pueblo WW for the design of new facilities and modifications of existing facilities.</li> <li>Legal, easement, and plat surveys for the site will not be required.</li> <li>Landscaping and irrigation plans will not be prepared.</li> <li>New access roadway work will be limited to the Secondary Clarifier portion of the site. No traffic analysis or traffic control design is required. Unimproved road east of the secondary clarifiers will not be modified.</li> <li>The capacity of the existing fire protection system is adequate to handle the new construction.</li> </ul> |
| Structural          | <ul style="list-style-type: none"> <li>No permanent cranes will be required.</li> <li>No retaining walls will be required.</li> <li>Secondary clarifier platforms to be designed by mechanism equipment manufacturer.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Process             | <ul style="list-style-type: none"> <li>Influent wastewater characteristics and fractions adopted during the Master Plan have not changed compared to current values.</li> <li>Historical operational data, including influent quality, primary effluent quality, operational secondary process data, SVI, RAS, hydrocyclones operation and secondary effluent quality data to be provided by Pueblo WW.</li> <li>Capacity of secondary process based on Regulation 85 requirements.</li> <li>Secondary clarifier requirements based on operation of hydrocyclones.</li> <li>No process modeling is required.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Process Mechanical  | <ul style="list-style-type: none"> <li>Design concerning "plant-wide" utility systems such as basin drainage, water and in-plant waste collection/disposal will be limited to extension of and/or changes to existing piping. No new structures or equipment will be needed.</li> <li>Corrosion control provisions will not be required for buried piping.</li> <li>Active cathodic protection will not be required for buried piping.</li> <li>Piping 2 inches in diameter and smaller will be field routed, unless needed to show appropriate design intent.</li> <li>Pipe supports will be Contractor-designed based upon a performance specification.</li> <li>Pipe expansion/contraction control measures will be Contractor-designed based upon a performance specification.</li> <li>Seismic bracing/control measures for piping will be specified for Contractor design</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Building Mechanical | <ul style="list-style-type: none"> <li>HVAC: No cooling will be provided for the main RAS pump station, heating/ventilating only.</li> <li>HVAC: Split system cooling with packaged controller and wall mounted thermostat for the electrical room. No interconnection to SCADA planned.</li> <li>Plumbing: limited plumbing systems to include drainage and hose bibs. No restroom is anticipated.</li> <li>Plumbing: Where emergency fixtures are planned, tepid water (80 – 85°F) will be provided.</li> <li>Fire Suppression: Fire suppression for RAS building is not anticipated.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

| Discipline Area | Key Scope Assumptions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Electrical      | <ul style="list-style-type: none"> <li>• PER/30 Percent Design phase documents will be limited to a basis of design TM, discipline general drawings, site drawings identifying major electrical system tie-ins/sources, and electrical load distribution.</li> <li>• Electrical specifications will be provided during the Final Design phase only.</li> <li>• It is assumed the net change in plant electrical load resulting from the project will not require upgrade of the plant's existing electrical service.</li> <li>• Fire detection/alarm: BC will provide a specification defining the performance requirements for the system. The system will be designed and constructed by the Contractor using licensed specialists as required.</li> <li>• Conduit and cable tray supports: BC will provide a specification defining the performance requirements for hangers and supports. The contractor will develop hanger and support details and route and install all conduits and cable trays.</li> <li>• Short-circuit, coordination, and arc flash analyses: BC will provide a specification for the performance of these analyses. The analyses will be performed by the Contractor using data for the actual electrical equipment procured and installed.</li> <li>• Site security, camera, and public address systems will not be included.</li> <li>• Travel to site will be from the local BC office only.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Instrumentation | <ul style="list-style-type: none"> <li>• I&amp;C will match the existing system and components available during the Project.</li> <li>• I&amp;C will be similar in type and sophistication to what currently exists. Analog elements and components will be used, and no significant modifications to existing I&amp;C equipment or systems will be needed.</li> <li>• A design for modifying the existing programmable logic controller (PLC)-based supervisory control and data acquisition system will be provided for the process areas being modified. Significant modifications to existing I&amp;C equipment or systems will not be required.</li> <li>• Pueblo will provide "as-built" documentation of the existing process instrumentation and control system. Pueblo-provided information will include, but not be limited to, existing motor and control circuit diagrams, panel shop drawings, process instrument information, and process control system software documentation.</li> <li>• The new instrumentation and control system will be based on the use of PLCs. Plant status monitoring will be by the existing commercially available PC-based software package. Remote access to plant components will not be provided.</li> <li>• PER/30 Percent Design will include process &amp; instrumentation diagrams (P&amp;IDs), completed to a level sufficient to identify the primary processes and process equipment and extent of major modification of treatment process. P&amp;IDs will be completed during the Final Design phase.</li> <li>• PER/30 Percent Design will include a Control System Block Diagram drawing depicting the site's major network modifications. Final Design will update the drawing to include all network modifications, in the Project-modified process areas only.</li> <li>• Discipline specifications will be provided during the Final Design phase only.</li> <li>• The Basis of Design TM will be provided during the PER/30 Percent Design phase, without modification during Final Design</li> <li>• The public address system design or modification will not be included.</li> <li>• Travel to site will be from the local BC office only.</li> <li>• Security system and video system design are excluded as part of this scope of work.</li> <li>• Vendor-supplied control system packages will be interfaced through hardwired signals.</li> </ul> |
| Permitting      | <ul style="list-style-type: none"> <li>• Wetlands, biological assessments, or archaeological investigations and surveys will not be necessary.</li> <li>• The construction contractor will secure other project-related permits such as the grading, building, electrical, and plumbing permits.</li> <li>• No effort associated with right-of-way permits is included as all construction activities will occur within the site boundaries of the existing plant.</li> <li>• Contractor is responsible for obtaining Stormwater Pollution Prevention Permit.</li> <li>• Pueblo WW will coordinate directly with the fire marshal for review as part of the Building Services permit application process.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

## Task Descriptions

Specific tasks to be performed by BC and Pueblo WW to implement the Phase A scope of work are summarized in the work breakdown below and described in further detail on the following pages.



| Work Breakdown Structure |                                     |     |                                           |
|--------------------------|-------------------------------------|-----|-------------------------------------------|
| Phase A                  | Phase 100:<br>Project Management    | 101 | Project Management Planning               |
|                          |                                     | 102 | Project Controls and Reporting            |
|                          |                                     | 103 | Project Management and Design Management  |
|                          |                                     | 104 | 30% QA/QC                                 |
|                          |                                     | 105 | Detailed Design QA/QC                     |
|                          |                                     | 106 | Funding Support for Clarifier Replacement |
|                          | Phase 200: PER/30<br>Percent Design | 201 | Coordination Meetings                     |
|                          |                                     | 202 | Architectural Design                      |
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|                          |                                     | 209 | Instrumentation Design                    |
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# Detailed Scope of Services

The following sections present BC's detailed scope of work.

## Phase 100 – Project Management

### Task 101: Project Management Planning

An internal Project Management Plan (PMP) will be created to 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, high quality, and meeting Pueblo WW's critical success factors. The key elements of the project plan are described below:

- Project Charter, which will establish the project goals, objectives, and critical success factors.
- Project team members, their roles, and responsibilities, including a staffing plan (management, engineering, QA/QC, etc.)
- Scope of Services with work breakdown structure
- Project schedule
- Project budgets
- Communications Plan
- Risk Management Plan
- QA/QC Plan
- BIM Execution Plan
- Project documentation plan and file structure
- Change management processes.
- Health and Safety Plan for field work

### Task 102: Project Controls and Reporting

Invoicing will occur monthly and will be prepared and submitted to Pueblo WW via email in an approved format. Invoices shall include total contract amount, total charges to date, previous billings, outstanding balance, current amount remaining, and total amount due. Invoice will include a narrative description of the work performed during the invoice period. This scope of work is based on a total project duration of 30 months.

#### Deliverables:

- Monthly invoices

### Task 103: Project Management and Design Management

BC will provide management oversight on the project in accordance with BC policies and standard practices. This task also includes the development of front-end Division 01 specifications for the project. Other activities include bidding support, permitting support, construction sequencing evaluation, and project closeout.

#### Pueblo Responsibilities:

- Provide the update Division 00 documents for review by BC to ensure consistency with Division 01 documents and other portions of the contract.





### **Assumptions:**

The Division 00 documents will require no significant edits for BC to make.

### **Task 104: 30% QA/QC**

BC will implement a QA/QC program and provide appropriate calculation and deliverable QA reviews by in-house, senior staff members on the PER/30 percent design documents. No external value engineering reviews are included in this scope.

### **Task 105: NOT USED**

### **Task 106: Funding Support**

#### **State Revolving Fund (SRF)**

BC will develop and submit a Project Needs Assessment (PNA) to the CDPHE for the SRF program. BC will review available information provided by Pueblo including the Master Plan, Conservation Study, and the Environmental Assessment from the construction of JRDWRF. The information will help support the PNA by providing information requested in the CDPHE questionnaire for SRF money. BC will compile this data into the relevant sections of the PNA.

Support Pueblo with coordination/communications with the CDPHE including participation on calls with the CDPHE. Activities may include calls with CDPHE, response to questions and comments, and overall SRF PNA status tracking.

#### **Pueblo Responsibilities for SRF:**

- Attend one kickoff meeting with the BC team (assumed to be 2 hours and held in-person) and one draft PNA review workshop (assumed to be up to 2 hours long and held virtually).
- The Pueblo Finance department will provide all financial information required by the PNA and SRF application and help with the narrative development as needed.
- Provide available documentation (e.g., project schedule and cost) and coordinate as needed BC throughout the duration of the PNA.
- Pueblo will coordinate legal review of the certifications and the required process to obtain the required signatures for the certification.
- Pueblo staff will coordinate the review of the draft PNA by various Departments (Public Works, Financial, Legal, etc.) and provide consolidated comments.
- The SRF PNA and attachments will be electronically submitted (per SRF requirements) by Pueblo WW.

#### **Assumptions for SRF:**

- Where documentation will need to be submitted to the CDPHE in support of the PNA (i.e., attachments) - electronic copies will be provided by Pueblo.
- Scope does not include the development of technical, environmental, or financial documentation that may be required and/or requested as a follow-up by the CDPHE or SRF application package assistance should the PNA be approved by CDPHE.
- Scope does not include the development of additional Project Cost estimates not already previously prepared.

#### **SRF Deliverables:**



- Draft PNA Package in .PDF format
- Final PNA Package in .PDF format, with review comments incorporated.

## WIFIA

BC will develop a submittal that provides enough information for Pueblo WW to apply for funding requests such as WIFIA. This submittal will include a brief write-up to describe the purpose and extent of the project along with pertinent preliminary design criteria. This submittal will also include basic figures to show the configuration of the new facilities on the existing plant site and high-level sequencing requirements. The basis of this submittal will be used to advance the design in subsequent phases of this scope of work.

BC will support Pueblo WW in the development of a Letter of Interest (LOI) to the U.S. Environmental Protection Agency (EPA) for WIFIA program funding. BC and Pueblo WW will prepare the WIFIA LOI, the first phase of the WIFIA program application process, based on information obtained in the kickoff meeting conducted on February 2, 2023 (subsequent WIFIA Application development and submittal would be a future task order). Preparation for the LOI includes a meeting with BC and Pueblo to

1. Review the WIFIA program and submission process.
2. Confirm the project scope to include in the funding application.
3. Discuss how the project aligns with EPA priorities and selection criteria.
4. Identify key milestone dates. Should Pueblo's LOI be accepted, a separate scope for the application will be developed with Pueblo WW.

BC will support Pueblo WW with coordination/communications with the EPA, including participation on calls with the EPA. Activities may include calls with EPA, response to questions and comments, and overall WIFIA LOI status tracking.

The WIFIA LOI will include the following:

- Section A – Key Loan Information. Summarize information provided about the prospective borrower, including borrower name and type, project description and purpose, DUNS/EIN and permit numbers, organizational structure, requested funding amount, proposed application submittal and loan close dates, etc.
- Section B – Engineering and Credit. Provide a technical, detailed description of the project, including supporting documentation, project schedule, and financial information. Input from Pueblo is necessary to completing the financial information portions of the LOI, including describing the proposed sources and uses of funds for the project, the type and amount of credit assistance Pueblo is seeking from the WIFIA program, and credit characteristics of the project. BC will review information received and discuss with Pueblo pertinent issues affecting the development and financing of the project. Available project documentation (e.g., preliminary engineering reports, feasibility studies, alternatives analyses, master plans, etc.) will be organized for submittal.
- Section C – Selection Criteria. Develop responses to describe how the project will achieve each of the program selection criteria related to project readiness, borrower credit worthiness, and project impact, with specific emphasis on the identified program priorities (as appropriate).
- Section D – Contact Information. Identify the primary and secondary points of contact with whom the WIFIA program should communicate regarding Pueblo's LOI.
- Section E – Certifications. Support Pueblo in obtaining the required Certifications and/or Signatory authority to sign the certification that Pueblo will abide by all applicable laws and regulations including National Environmental Policy Act, American Iron and Steel, Prevailing Wages, Lobbying, Debarment, Default/Delinquency, and Other Federal Requirements.



- Section F – Notification of State Infrastructure Financing Authority. Support Pueblo in obtaining the appropriate signature authority for notifying and sharing Pueblo's WIFIA LOI with the State infrastructure financing authority.

#### **Pueblo Responsibilities for WIFIA:**

- Attend one kickoff meeting with the BC team (assumed to be 2 hours and held in-person) and one draft LOI review workshop (assumed to be up to 2 hours long and held virtually). This kickoff will be combined above with the SRF kickoff, unless Pueblo decides otherwise.
- The Pueblo Finance department will provide all financial information (including an updated pro-forma form per the WIFIA-required format or rating letter) and help with the narrative development as required to develop Section B of the LOI.
- Provide available documentation (e.g., project schedule and cost) and coordinate as needed.
- Unless otherwise noted on the LOI, it is anticipated that Pueblo WW is responsible for the majority of the LOI content and BC will assist as needed.
- The WIFIA LOI and attachments will be electronically submitted (per WIFIA requirements) by Pueblo WW.
- Pueblo will coordinate legal review of the certifications and the required process to obtain the required signatures for the certification.
- Pueblo staff will coordinate the review of the draft LOI by various Departments (Public Works, Financial, Legal, etc.) and provide consolidated comments.

#### **Assumptions for WIFIA:**

- Where documentation will need to be submitted to the EPA in support of the LOI, electronic copies will be provided by Pueblo WW.
- Scope does not include the development of technical, environmental, or financial documentation that may be required and/or requested as a follow-up by the EPA or WIFIA application package assistance should Pueblo be invited to apply.
- Scope does not include the development of additional Project Cost estimates not already previously prepared.
- The WIFIA LOI development duration is anticipated to take one month. The EPA will review Pueblo WW submitted LOI is assumed to take 2-months.

#### **WIFIA Deliverables:**

- Draft LOI Package in .PDF format
- Final LOI Package in .PDF format, with review comments incorporated.

This task includes an in-person kickoff meeting (7 hours total; 2-hour meeting, 4-hour round-trip travel, 1 hour prep) in addition to 24 virtual bi-weekly meetings of approximately one hour each (2 hours budgeted/meeting including prep time). This task includes time for 3 virtual meetings with CDPHE (2.5 hours total per meeting; 1.5-hour meeting, 1 hour prep). This task includes time for 1 public meeting, assuming that both CDPHE and EPA's requirements can be met, and timing is appropriate, for a combined meeting. BC has assumed 2 hours for attendance of a public meeting, 4 hours for prep, and 4-hour round-trip travel for the public meeting. Should a second public meeting be necessary, whether due to incompatible timing between funding mechanisms or another reason, then BC will work with Pueblo WW to adjust this scope to accommodate that task or develop a change order or use of the Supplemental Services budget. This task includes time for a virtual meeting with Pueblo to review the PNA (2-hour meeting, 1 hour prep), and a virtual meeting



with Pueblo to review the LOI (2-hour meeting, 1 hour prep). Attendees to include the CSM/project manager and task manager(s). Additional team members will be included depending on the subjects discussed.

## Phase 200 – PER/30 Percent Design

This phase will advance the planning concepts in the Potential Dewatering Permit Compliance Alternatives Technical Memorandum dated June 8, 2022, which was prepared by BC. The submittal developed for the WIFIA funding application will also be used as the starting point for this phase. The objective of this phase will be to develop a Preliminary Engineering Report (PER) to document the basis for final design for the project scope of work to achieve the following:

- Form the basis for detailed design and preparation of contract documents and obtain Pueblo WW approval on general arrangement and direction of proposed design.
- Establish the process needs for secondary treatment, including number of secondary clarifiers and configuration.
- Establish structural design approach for secondary clarifiers.
- Establish hydraulic grade line that allows secondary clarifiers to be constructed at a higher elevation.
- Develop construction cost estimate for Pueblo WW use in procuring funding for project.
- Develop conceptual level construction sequencing plan.

Discipline specific tasks include effort associated with construction sequencing and internal project team meetings. Internal project team meetings will occur weekly during the PER Design phase.

### Task 201: Coordination Meetings

The objective of this task is to provide a regular forum for receipt, exchange, response, and documentation of project planning, design, and management related issues and decisions during the project. The following meetings are anticipated:

- **Kickoff Meeting and Site Visit.** BC will conduct a 3-hour kick-off meeting (in person) with Pueblo WW staff and BC team members to establish project expectations, discuss issues and concerns, and develop a foundation for collaborative teamwork. Concepts for discussion will include elements of the proposed design, general plant design, and construction considerations. BC will walk the site with Pueblo WW staff and discuss with Pueblo WW staff data needs for process model updates.
- **Construction Sequencing Meeting.** BC will conduct a 3-hour construction sequencing meeting (in person) with Pueblo WW staff and BC team members to discuss the maintenance of plant operations (MOPO) during construction and sequencing for the demolition and construction of new secondary clarifiers. Construction sequencing will be detailed in Division 01 specifications and in construction sequencing drawings.
- **Preliminary Design Review Meeting.** BC will conduct a 3-hour meeting (in person) with Pueblo WW staff to review the PER and preliminary drawings and specification list.

### Task 202: Architectural Design

The objective of this task is to perform a building code review and identify architectural treatment and materials for all new buildings associated with the Project to blend in with adjacent existing structures. The architectural design of the building will incorporate a “Green Building” approach, in which recycled-content materials for construction, the use of natural lighting, and energy efficient systems and configurations shall be incorporated into the design. In addition, materials will be evaluated for long-term durability and low maintenance. Strong, simple geometric building forms will contextually blend new facilities into the existing site.



BC will review the existing campus and match to the best extent possible architectural treatment and materials of the proposed structures working within the constraints and opportunities present by Federal, State and Local building codes and zoning ordinances. In addition, the following code review coordination activities will be completed:

- Define and coordinate applicable codes for all buildings/structures with local code officials and fire marshals.
- Complete building, fire, energy conservation and sustainable green building code assessments and coordinate with design disciplines as follows:
  - Coordinate with the structural engineer to define the structural design concepts for the facilities.
  - Coordinate with I&C and electrical disciplines to size and locate electrical and control rooms.

The code review for the architectural elements will be summarized and documented in the PER and will be used for detailed design. BC will prepare schematic elevations and identify the exterior material types and finishes. If pre-engineered buildings are utilized, elevations will not be shown, but the material types and finishes will be identified in the PER.

### **Task 203: Civil Design**

The objective of this task is to develop a preliminary overall site layout, including major process/yard piping, earthwork, drainage, and initial identification of construction constraints, and to coordinate these concepts with the other design disciplines as needed. BC will develop the following elements:

- Civil 3D models of both existing and proposed features
- Horizontal and vertical control
- Preliminary site layout, including but not limited to major process piping, grading, pavement, site drainage, and site access.
- Preliminary drawings
- Specification list

The proposed site improvements and new facilities will be summarized in the PER.

### **Task 204: Structural Design**

The objective of this task is to establish the basis of design criteria which determines the boundary conditions for subsequent project design decisions. Establish the structural requirements in support of the overall process configuration from a schematic and spatial configuration. This includes establishing preliminary structural sizing and identification of major equipment and piping layouts, and site constraints that will affect the structural configuration and design. Develop structural design to the PER Design level and coordinate general arrangement drawings with other disciplines. BC will develop the following elements:

- Structural design criteria
- Coordinate clarifier foundation design with recommendations in Geotech report (provided by Pueblo WW).
- Major structural components depicted on general arrangement drawings.
- Coordinate Process Mechanical/Structural requirements for major equipment.
- Coordinate Electrical and HVAC requirements, including:
  - Electrical/HVAC room sizes
  - Major equipment
  - Plenums/chases



- Create preliminary plans and overall sections with dimensions and floor elevations.
- Show major interfaces with existing structures.

The structural design criteria and design to resist buoyance forces will be documented in the PER. The structural drawings developed for the preliminary design will include General Notes, Legends and General Arrangement Plan sheets.

### **Task 205: Process Design**

Process Design to provide limited input for the in-kind replacement of the clarifiers. Recommendations will be provided in the PER.

### **Task 206: Process Mechanical Design**

The objective of this task is to develop the overall process configuration from a schematic and spatial configuration. To finalize wastewater treatment process calculations and parameters for sizing and locating facilities. To develop general arrangement drawings to the preliminary design level. Coordinate with other disciplines to show key discipline components on the general arrangement drawings. Major discipline models have been developed. BC will develop the following elements:

- Develop design criteria.
- Major equipment type and preliminary model selections made for use in laying out equipment.
- P&IDs developed to indicate the major process lines and mechanical equipment.
- Coordinate major utilities with civil discipline.
- Coordinate model development.
- Develop control narratives and coordinate with I&C engineers on instrumentation requirements.
- Develop initial pump selections and clarifier mechanism type.

The process mechanical design criteria, clarifier mechanism basis of design and pump selection will be documented in the PER. The process mechanical drawings developed for the preliminary design will include P&IDs (mechanical aspect only), General Arrangement Plans, and select sections showing major equipment and key piping.

### **Task 207: Building Mechanical Design**

The objective of this task is to develop the building mechanical design (which includes both HVAC and plumbing) to the PER Design level and coordinate general arrangement drawings with all disciplines. BC will develop the following elements:

- Preliminary calculations for ventilation, heating, and cooling loads.
- Preliminary HVAC equipment sizing and selection.
- Preliminary air flow schematics.
- Preliminary HVAC general arrangement drawings.
- Code reviews.

The building mechanical design criteria, preliminary equipment sizing and selection, and code review will be documented in the PER. The building mechanical drawings developed for the preliminary design will include airflow schematics and HVAC general arrangement drawings.

### **Task 208: Electrical Design**

The objective of this task is to develop electrical design for providing power from existing plant medium voltage electrical distribution system to a new secondary clarifier pump station and all necessary electrical





equipment. New electrical equipment shall replace the existing equipment identified as part of the Phase 6 and Phase 7 projects. Equipment being replaced includes Transformers for Area 69, SWGR-69, MCC-69 and ACP-69. Design shall allow to maintain continual dual power feeds to at least two secondary clarifiers & pumping, the UV facility (Area 83) and the NPW facility (Area 70). It is anticipated that the new pump station and electrical equipment will need to be constructed prior to de-commissioning of the existing Area 69 SWGR and MCC's.

BC will develop the following elements:

- Preliminary service loads for all new equipment and evaluate the capacity of the existing electrical system.
- Preliminary layout of electrical room and area space including power distribution.
- Preliminary electrical room heat loads based upon preliminary equipment sizing, to be used in HVAC system sizing.
- Preliminary site and interior lighting selection.

The electrical design criteria and code review will be summarized and documented in the PER. The electrical drawings developed for the preliminary design will include power one-line diagrams (power distribution) and site electrical power plan drawings.

### **Task 209: Instrumentation Design**

The objective of this task is to develop instrumentation design to the PER Design level, develop draft process and instrumentation diagrams (P&IDs) supporting the replacement of the existing secondary clarifiers, RAS pump station, the local controls, and the existing network cabling connecting the local control system with the existing facility. Coordinate discipline-specific requirements with the other design disciplines and coordinate draft construction sequencing plan.

BC will determine scope of new process instrumentation, system network and local control system requirements and provide draft design process and instrumentation diagrams (P&IDs) and technical preliminary engineering report edits supporting the PER phase of the secondary clarifier process replacement. The instrumentation drawings developed for preliminary design include P&IDs and control system block diagrams.

### **Task 210: Cost Estimating**

The objective of this task is to provide estimate of probable construction cost based on the preliminary design. Cost estimates will be prepared to a Class 4 (typically -30 percent to +50 percent accuracy range) accuracy in accordance with the AACE guidelines. Note, construction cost estimates, financial analyses and feasibility projections are subject to many influences including, but not limited to, price of labor and materials, unknown or latent conditions of existing equipment or structures, and time or quality of performance by third parties. Such influences may not be precisely forecasted and are beyond the control of BC, and that actual costs incurred may vary substantially from the estimates prepared by BC. BC does not warrant or guarantee the accuracy of construction or development cost estimates.



**Task 211: Permitting Support**

The objective of this task is to assist Pueblo WW in preparing for permits and other regulatory documents required for the final design and new facility construction. This task includes assisting with submission to the Colorado Department of Public Health and Environment (CDPHE). The CDPHE application and PER/30 percent design will be submitted to CDPHE to start the permitting process.

**Task 212: Document Preparation**

The objective of this task is to coordinate the content from each of the design disciplines and prepare the PER/30 percent design submittal. BC will submit a pdf of the draft PER and a pdf of the final PER, updated with Pueblo WW review comments. BC will submit a pdf of the preliminary design drawings. Pueblo WW review comments on the drawings will be incorporated into the final design drawing submittal.

**Phase 200 Pueblo Responsibilities:**

- Staff availability to attend meetings and site walks and provide input to the design. BC strongly encourages the participation of operations and maintenance, engineering, and management staff. Staff availability and support to BC staff during secondary clarifier field testing.
- Provide review and input on construction sequencing requirements.
- Review of meeting minutes.
- Review draft PER/30 percent design submittal. Review comments will be issued to BC either on a comment log or via Bluebeam studio.
- Provide all necessary shop drawings, submittals, records, and operation and maintenance information or other data as requested. Provide historical operational data from 2019 through 2022 in electronic, excel format.
- Review the Class 4 Estimate of Probable Construction Cost and provide comments as applicable.
- Review BC response packages to CDPHE prior to submission.
- Provide input on pump selection and clarifier mechanism preferences (drive type, maintenance requirements, etc.), design temperature conditions for all conditioned or heated spaces.
- Confirm or establish design criteria for site improvements using a decision/issues log. Criteria listed in the PER design will be discussed during the Preliminary Design Review Meeting (Task 201).
- Provide site survey data as needed to inform the design.
- Confirm site utility features through field locates or other methods where there is reasonable expectation the base map drawings may require additional information or verification.
- Coordinate with the fire marshal for review of the proposed facilities and determine the minimum fire flow at the required residual pressure. Provide BC with fire flow design criteria for the on-site water system extensions.

**Phase 200 Deliverables:**

- Meeting agenda and presentation materials for three meetings
- Meeting Minutes summarizing discussion for three meetings, in .PDF format
- Electronic copy of the draft PER in .docx format
- Electronic copy of the final PER in .PDF format, with Pueblo WW comments incorporated.
- Electronic copy of the preliminary drawings in .PDF format
- Class 4 Opinion of probable cost estimate in .PDF format, draft and final





- Permit application package including the CDPHE permit review application, PER, and preliminary drawings in .PDF format.

**Phase 300 – Not Used**

**Phase 400 – Not Used**



Excerpt from Brown and Caldwell Proposal to City dated May 4, 2023; page 19

[illegible]

**PROJECT SCHEDULE***City of Pueblo***SCHEDULE 3 – WORK SCHEDULE**

Excerpt from Brown and Caldwell Proposal to City dated May 4; page 21

**Clarifier Replacement Schedule**

| ID | Phz.Task | Task Name                    | Duration | Start       | Finish      | May '23 | Jun '23 | Jul '23 | Aug '23 | Sep '23 | Oct '23 | Nov '23 | Dec '23 | Jan '24 | Feb '24 | Mar '24 |
|----|----------|------------------------------|----------|-------------|-------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
|    |          |                              |          |             |             | 30      | 7       | 14      | 21      | 28      | 4       | 11      | 18      | 25      | 2       | 9       |
| 1  |          | Notice to Proceed            | 0 days   | Mon 6/5/23  | Mon 6/5/23  |         | ◆ 6/5   |         |         |         |         |         |         |         |         |         |
| 2  | 100      | 100 - Project Management     | 185 days | Mon 6/5/23  | Fri 2/16/24 |         |         |         |         |         |         |         |         |         |         |         |
| 3  |          | Project management           | 185 days | Mon 6/5/23  | Fri 2/16/24 |         |         |         |         |         |         |         |         |         |         |         |
| 4  |          | Project Closeout             | 9 days   | Tue 2/6/24  | Fri 2/16/24 |         |         |         |         |         |         |         |         |         |         |         |
| 5  | 200      | 200 - PER / 30% Design Phase | 179 days | Mon 6/12/23 | Fri 2/16/24 |         |         |         |         |         |         |         |         |         |         |         |
| 6  |          | Funding Support              | 60 days  | Mon 6/12/23 | Fri 9/1/23  |         |         |         |         |         |         |         |         |         |         |         |
| 7  |          | PER / 30% Design Phase       | 172 days | Mon 6/12/23 | Tue 2/6/24  |         |         |         |         |         |         |         |         |         |         |         |
| 8  |          | Final PER / 30% Design       | 0 days   | Fri 2/16/24 | Fri 2/16/24 |         |         |         |         |         |         |         |         |         |         | ◆ 2/16  |

**ADDITIONAL INFORMATION FOR AGREEMENT**

Certificate of Good Standing

Colorado PERA Questionnaire

Insurance Certificate(s)



# Colorado

## Secretary of State

Jena Griswold



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Summary

| Details                          |               |                                                                         |                     |
|----------------------------------|---------------|-------------------------------------------------------------------------|---------------------|
| Name                             |               | BROWN AND CALDWELL, INC.                                                |                     |
| Status                           | Good Standing | Formation date                                                          | 03/20/1978          |
| ID number                        | 19871067502   | Form                                                                    | Foreign Corporation |
| Periodic report month            | March         | Jurisdiction                                                            | California          |
| Principal office street address  |               | 201 North Civic Drive, Suite 300, Walnut Creek, CA 94596, United States |                     |
| Principal office mailing address |               | 2 North Central Avenue, Suite 1600, Phoenix, AZ 85004, United States    |                     |

| Registered Agent |                                                                 |
|------------------|-----------------------------------------------------------------|
| Name             | Corporation Service Company                                     |
| Street address   | 1900 W. Littleton Boulevard, Littleton, CO 80120, United States |
| Mailing address  | 1900 W. Littleton Boulevard, Littleton, CO 80120, United States |

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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,

BROWN AND CALDWELL, INC.

is an entity formed or registered under the law of California , 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 19871067502 .

This certificate reflects facts established or disclosed by documents delivered to this office on  
paper through 05/17/2023 that have been posted, and by documents delivered to this office  
electronically through 05/19/2023 @ 14:45:42 .

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 05/19/2023 @ 14:45:42 in accordance with applicable law.  
This certificate is assigned Confirmation Number 14992166 .



*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\_\_\_\_. (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, date of birth, and social security number of each such PERA Retiree. If more than two, please attach a supplemental list.

| Name | Address | DOB | Social Security Number |
|------|---------|-----|------------------------|
| Name | Address | DOB | 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: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

## **Add Insurance Certificates**





**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 12, 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 APPROVING AND ACCEPTING COLORADO DEPARTMENT OF TRANSPORTATION (CDOT) AERONAUTICS DIVISION GRANT NO. 23-PUB-01 FOR FUNDS IN THE AMOUNT OF \$276,521 FOR THE RUNWAY 8R-26L REHABILITATION AND TAXIWAY A2 REMOVAL PROJECT, AUTHORIZING THE MAYOR TO EXECUTE SAME, AND BUDGETING AND APPROPRIATING \$599,121 IN GRANT AND MATCHING FUNDS TO PROJECT NO. AP2205 – REHAB RUNWAY 8R-26L DESIGN & CONSTRUCTION

**SUMMARY:**

This Ordinance will approve and accept a Colorado Department of Transportation Aeronautics Division Grant for the Runway 8R-26L Rehabilitation and Taxiway A2 Removal (Phase 2 Construction) project for the Pueblo Memorial Airport.

**PREVIOUS COUNCIL ACTION:**

Ordinance No. 10242 was approved by City Council on August 9, 2022, and accepted an FAA AIP grant, established Project No. AP2205, and awarded the Agreement for Professional Engineering Services ("Professional Services Agreement") to Dibble and Associates Consulting Engineers, Inc., for the Rehabilitation of Runway 8R/26L (Phase 1 - Design).

**BACKGROUND:**

The Colorado Department of Transportation (CDOT) conducted a pavement condition assessment of this Runway, and it was determined that the pavement needs rehabilitation. This project is on the Capital Improvement Plan schedules for 2022 and 2023, approved by both the FAA and CDOT for Entitlement Fund use.

This Ordinance will approve and accept the Colorado Department of Transportation's grant for its portion of the project funding. The Federal Aviation Administration's grant will be accepted at a later date.

**FINANCIAL IMPLICATIONS:**

Funds in the amount of \$599,121, which includes CDOT's grant award of \$276,521 plus the City of Pueblo's required matching funds of \$322,600 for the entire project. The City's matching funds will be transferred from the Airport Improvement Trust Fund, budgeted and appropriated to Project No. AP2205 – Rehab Runway 8R-26L Design & Construction.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable to this Ordinance.

**STAKEHOLDER PROCESS:**

Not applicable to this Ordinance.

**ALTERNATIVES:**

If this Ordinance is not approved, the grant will not be accepted from the State and project will not occur.

**RECOMMENDATION:**

Approve the Ordinance.

**ATTACHMENTS:**

1. 23-PUB-01 SDGA Resolution to be Signed
2. CDOT Grant Cert Memo

ORDINANCE NO. 10486

AN ORDINANCE APPROVING AND ACCEPTING COLORADO DEPARTMENT OF TRANSPORTATION (CDOT) AERONAUTICS DIVISION GRANT NO. 23-PUB-01 FOR FUNDS IN THE AMOUNT OF \$276,521 FOR THE RUNWAY 8R-26L REHABILITATION AND TAXIWAY A2 REMOVAL PROJECT, AUTHORIZING THE MAYOR TO EXECUTE SAME, AND BUDGETING AND APPROPRIATING \$599,121 IN GRANT AND MATCHING FUNDS TO PROJECT NO. AP2205 – REHAB RUNWAY 8R-26L DESIGN & CONSTRUCTION

WHEREAS, the General Assembly of the State of Colorado declared in Title 43 of the Colorado Revised Statutes, Article 10, 1991 in C.R.S. §43-10-101 (“the Act”) “...that there exists a need to promote the safe operations and accessibility of general aviation in this state: that improvements to general aviation transportation facilities will promote diversified economic development across the state; and that accessibility to airport facilities for residents of the state is crucial in the event of a medical or other type of emergency...”; and,

WHEREAS, The Act created the Colorado Aeronautical Board (“the Board”) to establish policy and procedures for distribution of monies in the Aviation Fund and created the Division of Aeronautics (“the Division”) to carry out the directives of the Board, including technical and planning assistance to airports and the administration of the state aviation system grant program. See C.R.S. §43-10-103 and C.R.S. §43-10-105 and C.R.S. §43-10-108.5 of the Act; and,

WHEREAS, any eligible entity operating an FAA-designated public-use airport in the state may file an application for and be recipient of a grant to be used solely for aviation purposes. The Division is authorized to assist such airports and such airports may request assistance by means of an Ordinance passed by the applicant’s duly-authorized Governing body, which understands that all funds shall be used exclusively as defined in the Division’s Programs and Procedures Manual (“the Manual”) and the Airport Sponsor Assurances for the Colorado Discretionary Aviation Grant Funding (“Grant Assurances”) for the project detailed in the Discretionary Aviation Grant Application (“Application”) and in conjunction with CDOT’s Small Dollar Grant Award Terms and Conditions; NOW, THEREFORE,

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

SECTION 1.

The Mayor and City Council of the City of Pueblo, as a duly authorized governing body of the grant applicant, hereby formally request assistance from the Colorado Aeronautical Board and the Division of Aeronautics (“Division”) in the form of a state aviation system grant. The City of Pueblo states that such grant shall be used solely for aviation purposes, as determined by the State, and as generally described in the Application. By signing this Ordinance, the City of Pueblo commits to keep open and accessible for public use all grant funded facilities, improvements, and services for their useful life, as determined by the Division and stated in this Ordinance and Grant Assurances.

## SECTION 2.

The Small Dollar Grant Award CDAG No. 23-PUB-01, including the Grant Assurances and Application, (together the "Grant Agreement") by and between the Colorado Department of Transportation Aeronautics Division ("CDOT") and the City of Pueblo, a Municipal Corporation, a true copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby accepted and approved.

## SECTION 3.

The Mayor is hereby authorized to execute the Grant Agreement in the name and on behalf of the City of Pueblo, where the Mayor may execute the Grant Agreement by electronic signature and such electronic signature shall be attributable to the Mayor and the City of Pueblo.

## SECTION 4.

The City of Pueblo hereby designates the Director of Aviation as the Project Director, as described in the Manual, and authorizes the Project Director to act in all matters relating to the work project proposed in the Application on City's behalf.

## SECTION 5.

Funds in the amount of \$276,521.00 from the Grant Agreement are hereby budgeted and appropriated to Project No. AP2205 – Rehab Runway 8R-26L Design & Construction.

## SECTION 6.

Local matching funds in the amount of \$322,600.00 are hereby budgeted and appropriated from the Airport Improvement Trust Fund to Project No. AP2205 – Rehab Runway 8R-26L Design & Construction.

## SECTION 7.

The City of Pueblo has appropriated all funds that are currently required to be provided by the Application under the terms and conditions of the Grant Agreement.

## SECTION 8.

Pursuant to the Grant Agreement, CDOT may make amendments to the grant terms and its obligations thereunder, including the increasing or decreasing of its grant obligation. In accordance therewith, such amendments shall be effective without the need for an additional ordinance or other action by City Council. Should CDOT increase the maximum grant obligation, said funds shall be automatically budgeted and appropriated to Project No. AP2205 – Rehab

Runway 8R-26L Design & Construction, as designated by CDOT, without the need for further action.

#### SECTION 9.

The City of Pueblo hereby accepts all guidelines, procedures, standards, and requirements described in the Manual as applicable to the performance of the grant work and hereby approves the Grant Agreement submitted by the State, including all terms and conditions contained therein.

#### SECTION 10.

Use of the grant funds from the Grant Agreement for Project No. AP2205 – Rehab Runway 8R-26L Design & Construction, is hereby conditioned on the City's receipt of Federal Aviation Administration ("FAA") grant funds for said project. Should an FAA grant not be received for the stated purpose, the grant funds from the Grant Agreement shall be returned to CDOT.

#### SECTION 11.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the Grant Agreement to implement the policy and procedures described therein.

#### SECTION 12.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

#### **Action by City Council:**

Introduced and initial adoption of Ordinance by City Council on June 12, 2023.

Final adoption of Ordinance by City Council on June 26, 2023.

  
\_\_\_\_\_  
President of City Council

#### **Action by the Mayor:**

☒ Approved on June 29, 2023.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

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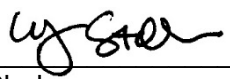
  
\_\_\_\_\_  
Mayor

**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 Division of Aeronautics Discretionary Aviation Grant Resolution

### RESOLUTION

#### WHEREAS:

The General Assembly of the State of Colorado declared in Title 43 of the Colorado Revised Statutes, Article 10, 1991 in CRS §43-10-101 (the Act) "... that there exists a need to promote the safe operations and accessibility of general aviation in this state; that improvements to general aviation transportation facilities will promote diversified economic development across the state; and that accessibility to airport facilities for residents of this state is crucial in the event of a medical or other type of emergency..."

The Act created the Colorado Aeronautical Board ("the Board") to establish policy and procedures for distribution of monies in the Aviation Fund and created the Division of Aeronautics ("the Division") to carry out the directives of the Board, including technical and planning assistance to airports and the administration of the state aviation system grant program. SEE CRS §43-10-103 and C.R.S. §43-10-105 and CRS §43-10-108.5 of the Act.

Any eligible entity operating an FAA-designated public-use airport in the state may file an application for and be recipient of a grant to be used solely for aviation purposes. The Division is authorized to assist such airports and request assistance by means of a Resolution passed by the applicant's duly-authorized governing body, which understands that all funds shall be used exclusively for aviation purposes and that it will comply with all grant procedures, grant assurances and requirements as defined in the Division's Programs and Procedures Manual, ("the Manual") and the Airport Sponsor Assurances for Colorado Discretionary Aviation Grant Funding ("Grant Assurances") attached hereto as **Exhibit B** for the project detailed in the Discretionary Aviation Grant Application ("Application") attached hereto as **Exhibit A** and in conjunction with CDOT's Small Dollar Grant Award Terms and Conditions attached hereto as **Exhibit C**.

#### NOW, THEREFORE, BE IT RESOLVED THAT:

The **City of Pueblo**, as a duly authorized governing body of the grant applicant, hereby formally requests assistance from the Colorado Aeronautical Board and the Division of Aeronautics in the form of a state aviation system grant. The **City of Pueblo** states that such grant shall be used solely for aviation purposes, as determined by the State, and as generally described in the Application.

By signing this Grant Resolution, the applicant commits to keep open and accessible for public use all grant funded facilities, improvements and services for their useful life, as determined by the Division and stated in the Grant Assurances.

#### FURTHER BE IT RESOLVED:

That the **City of Pueblo** hereby designates **Greg Pedroza** as the Project Director, as described in the Manual and authorizes the Project Director to act in all matters relating to the work project proposed in the Application, including execution of any amendments.

#### FURTHER:

The **City of Pueblo** has appropriated or will otherwise make available in a timely manner all funds, if any, that are required to be provided by the applicant as shown on the Application.

#### FINALLY:

The **City of Pueblo** hereby accepts all guidelines, procedures, standards, and requirements described in the Manual as applicable to the performance of the grant work and hereby approves this Grant Resolution, including all terms and conditions contained therein.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

#### ATTEST (if needed)

By: \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

## EXHIBIT A



# Colorado Division of Aeronautics Discretionary Aviation Grant Application

| APPLICANT INFORMATION                                                                        |                                            |                           |
|----------------------------------------------------------------------------------------------|--------------------------------------------|---------------------------|
| <b>APPLICANT SPONSOR:</b><br>City of Pueblo                                                  | <b>AIRPORT:</b><br>Pueblo Memorial Airport | <b>IDENTIFIER:</b><br>PUB |
| <b>PROJECT DIRECTOR:</b> Greg Pedroza                                                        |                                            |                           |
| <b>MAILING ADDRESS:</b><br>Pueblo Memorial Airport<br>31201 Bryan Circle<br>Pueblo, CO 81001 | <b>EMAIL ADDRESS:</b>                      | gpedroza@pueblo.us        |
|                                                                                              | <b>PHONE NUMBER:</b>                       | (719) 553-2744            |

| GRANT NAME AND TERMS |                 |                                   |
|----------------------|-----------------|-----------------------------------|
| <b>23-PUB-01</b>     | <b>TERMS</b>    |                                   |
|                      | Execution Date: | Expiration Date:<br>June 30, 2026 |

| FUNDING SUMMARY         |                 |
|-------------------------|-----------------|
| Funding Source          | Funding Amount  |
| State Aviation Grant:   | \$276,521.00    |
| Local Cash:             | \$322,600.00    |
| Local In-Kind:          | \$0.00          |
| Federal Aviation Grant: | \$11,383,278.00 |
| Total Project Funding:  | \$11,982,399.00 |

| PROJECT SCHEDULE & BUDGET                                                               |                     |             |                     |       |                        |        |                        |
|-----------------------------------------------------------------------------------------|---------------------|-------------|---------------------|-------|------------------------|--------|------------------------|
| ELEMENT DESCRIPTION                                                                     | STATE FUNDING       |             | LOCAL FUNDING       |       | FEDERAL FUNDING        |        | TOTAL                  |
| <b>A.</b> A - Participate in Federally Funded Rwy 8R/26L Rehab and Twy A2 Removal       | \$250,000.00        | Up to 2.50% | \$296,077.00        | 2.71% | \$10,375,443.00        | 95.00% | \$10,921,520.00        |
| <b>B.</b> B - BIL - Participate in Federally Funded Rwy 8R/26L Rehab and Twy A2 Removal | \$26,521.00         | Up to 2.50% | \$26,523.00         | 2.50% | \$1,007,835.00         | 95.00% | \$1,060,879.00         |
| <b>TOTALS</b>                                                                           | <b>\$276,521.00</b> |             | <b>\$322,600.00</b> |       | <b>\$11,383,278.00</b> |        | <b>\$11,982,399.00</b> |



## EXHIBIT B, GRANT ASSURANCES

### Airport Sponsor Assurances for Colorado Discretionary Aviation Grant Funding

Approved by CAB January 22, 2018

#### I. APPLICABILITY

- a. These assurances shall be complied with by Airport Sponsors in the performance of all projects at airports that receive Colorado Department of Transportation – Division of Aeronautics (Division) Colorado Discretionary Aviation Grant (CDAG) funding for projects including but not limited to: master planning, land acquisition, equipment acquisition or capital improvement projects (Project). It is not the intent of these Assurances to expand existing Federal Aviation Administration (FAA) Grant Assurances for airports included in the National Plan of Integrated Airport Systems (NPIAS); as similar assurances already exist for acceptance of FAA funding.
- b. Upon acceptance of this grant agreement these assurances are incorporated in and become a part thereof.

#### II. DURATION

- a. The terms, conditions and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the Project as defined in Table 1 (Useful Life), or if the airport for which the Project is funded ceases to function as a public airport, for twenty (20) years from the date of Project completion, whichever period is greater. However, there shall be no limit on the duration of the assurances with respect to real property acquired with CDAG Project funds.

#### III. COMPLIANCE

- a. Should an Airport Sponsor be notified to be in non-compliance with any terms of this agreement, they may become ineligible for future Division funding until such non-compliance is cured.
- b. If any Project is not used for aviation purposes during its Useful Life, or if the airport for which the Project is funded ceases to function as a public airport, for twenty (20) years from the date of Project completion or at any time during the estimated useful life of the Project as defined in Table 1, whichever period is greater, the Airport Sponsor may be liable for repayment to the Division of any or all funds contributed by the Division under this agreement. If the airport at which the Project is constructed is abandoned for any reason, the Division may in its discretion discharge the Airport Sponsor from any repayment obligation upon written request by the Airport Sponsor.

#### IV. AIRPORT SPONSOR GRANT ASSURANCES

1. **Compatible Land Use.** Compatible land use and planning in and around airports benefits the state aviation system by providing opportunities for safe airport development, preservation of airport and aircraft operations, protection of airport approaches, reduced potential for litigation and compliance with appropriate airport design standards. The airport will take appropriate action, to the extent reasonable, to restrict the use of land adjacent to, in the immediate vicinity of, or on the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft.
2. **On-Airport Hazard Removal and Mitigation.** The airport will take appropriate action to protect aircraft operations to/from the airport and ensure paths are adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.
3. **Safe, Efficient Use, and Preservation of Navigable Airspace.** The airport shall comply with 14 CFR Part 77 for all future airport development and anytime an existing airport development is altered.
4. **Operation and Maintenance.** In regards to Projects that receive Division funding, the airport sponsor certifies that it has the financial or other resources that may be necessary for the preventive maintenance, maintenance, repair and operation of such projects during their Useful Life.

The airport and all facilities which are necessary to serve the aeronautical users of the airport shall be operated at all times in a safe and serviceable condition. The airport will also have in effect arrangements for:

- a. Operating the airport's aeronautical facilities whenever required;
  - b. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
  - c. Promptly notifying airmen of any condition affecting aeronautical use of the airport.
5. **Airport Revenues.** All revenues generated by the airport will be expended by it for the capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the owner or operator of the airport for aviation purposes.
  6. **Airport Layout Plan (ALP).** Once accomplished and as otherwise may be required to develop, it will keep up-to-date a minimum of an ALP of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing improvements thereon.
  7. **Use for Aviation Purposes.** The Airport Sponsor shall not use runways, taxiways, aprons, seeded areas or any other appurtenance or facility constructed, repaired, renovated or maintained under the terms of this Agreement for activities other than aviation purposes unless otherwise exempted by the Division.

**TABLE 1**

| <b>Project Type</b>                                                       | <b>Useful Life</b> |
|---------------------------------------------------------------------------|--------------------|
| <b>a.</b> All construction projects (unless listed separately below)      | 20 years           |
| <b>b.</b> All equipment and vehicles                                      | 10 years           |
| <b>c.</b> Pavement rehabilitation (not reconstruction, which is 20 years) | 10 years           |
| <b>d.</b> Asphalt seal coat, slurry seal, and joint sealing               | 3 years            |
| <b>e.</b> Concrete joint replacement                                      | 7 years            |
| <b>f.</b> Airfield lighting and signage                                   | 10 years           |
| <b>g.</b> Navigational Aids                                               | 15 years           |
| <b>h.</b> Buildings                                                       | 40 years           |
| <b>i.</b> Land                                                            | Unlimited          |

# STATE CONTROLLER

## MODEL SMALL DOLLAR GRANT AWARDS AND CONTENT

This is a State Controller Contract, Grant, and Purchase Order Policy under the State Fiscal Rules. All Small Dollar Grant Awards shall use one of the approved models Small Dollar Grant Award or Grant Agreement forms described in Fiscal Rule 3-4 unless the State Agency or Institution of Higher Education (IHE) has obtained the prior written approval from the Office of the State Controller (OSC).

**1) Available Model Small Dollar Grant Awards.** The following model Small Dollar Grant Awards may be used by State Agencies and IHEs without additional approval from the OSC:

- a. Financial System Generated Small Dollar Grant Awards.** This model is the system-generated document resulting from a Colorado Operations Resource Engine (CORE) POGG1 encumbrance or through another approved state financial system, which also explicitly references a link to the State of Colorado Small Dollar Grant Award Terms and Conditions that are attached to this policy. This model does not include other documents with a similar or the same appearance as one of these documents that is not generated within the financial system
- b. Other Approved Forms.** A State Agency or IHE, at the discretion of the State Agency's or IHE's Procurement Official or State Controller delegate, may request other approved forms from the OSC.
- c. Backup Forms.** If CORE or the approved state financial system used by the State Agency or IHE is unavailable for an extended period of time when a Small Dollar Grant Award must be issued, the State Agency or IHE, with the prior approval of the OSC, may use a backup form with the same or substantially similar appearance as one of the documents described in §1)a.

**2) Modifications of Model Small Dollar Grant Awards.** A State Agency or Institution of Higher Education issuing a Small Dollar Grant Award may not modify the State of Colorado Small Dollar Grant Award Terms and Conditions attached to this policy, including Addendum 1: Additional Terms & Conditions for Information Technology ("Addendum"), in any way without prior written approval of the OSC.

- a. Exception.** The Office of Information Technology (OIT) may modify the provisions of Addendum for the State of Colorado Small Dollar Grant Awards specifically issued by OIT with the prior written approval of the Procurement Official of OIT or authorized delegate, without obtaining additional approval from OSC.
- b. Unauthorized Modifications.** Except as described in §2)a., the failure of a State Agency or IHE to obtain approval from the OSC prior to issuing a Small Dollar Grant Award with modified the State of Colorado Small Dollar Grant Award Terms and Conditions shall constitute a violation of Fiscal Rule 3-4, §§ 4.1.7. and 5.1.

**3) Small Dollar Grant Award Exhibits and References.** All Small Dollar Grant Awards shall either include or specifically reference the State of Colorado Small Dollar Grant Award Terms and Conditions by hyperlink or, if modified in accordance with §2), attach the modified State of Colorado Small Dollar Grant Award Terms and Conditions and shall clarify on the Small Dollar Grant Award that the attached modified State of Colorado Small Dollar Grant Award Terms and Conditions shall govern the Small Dollar Grant Award in lieu of the State of Colorado Small Dollar Grant Award Terms and Conditions referenced by hyperlink. Small Dollar Grant Awards shall also include any additional exhibits, based on the nature of the work performed under the Small Dollar Grant Award, as required by any other state

## STATE CONTROLLER

and/or federal agency with authority over that type of work or by any entity providing funding for the Small Dollar Grant Award, including, but not limited to, the following:

- a. Additional information technology provisions required by OIT.
- b. Additional provisions required to comply with the Office of Management and Budget Uniform Guidance, or the Federal Funding Accountability and Transparency Act, or any other applicable federal terms and conditions.
- c. Any federally required attachments relating to confidential information, such as a Health Information Portability and Accountability Act (HIPAA) Business Associate Addendum or a Federal Tax Information Exhibit.



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**Robert Jaros, CPA, MBA, JD State  
Controller**

# STATE CONTROLLER

## State of Colorado Small Dollar Grant Award Terms and Conditions

- 1. Offer/Acceptance.** This Small Dollar Grant Award, together with these terms and conditions (including, if applicable, Addendum 1: Additional Terms and Conditions for Information Technology below), and any other attachments, exhibits, specifications, or appendices, whether attached or incorporated by reference (collectively the "Agreement") shall represent the entire and exclusive agreement between the State of Colorado, by and through the agency identified on the face of the Small Dollar Grant Award ("State") and the Subrecipient identified on the face of the Small Dollar Grant Award ("Grantee"). If this Agreement refers to Grantee's bid or proposal, this Agreement is an ACCEPTANCE of Grantee's OFFER TO PERFORM in accordance with the terms and conditions of this Agreement. If a bid or proposal is not referenced, this Agreement is an OFFER TO ENTER INTO AGREEMENT, subject to Grantee's acceptance, demonstrated by Grantee's beginning performance or written acceptance of this Agreement. Any COUNTER-OFFER automatically CANCELS this Agreement, unless a change order is issued by the State accepting a counter-offer. Except as provided herein, the State shall not be responsible or liable for any Work performed prior to issuance of this Agreement. The State's financial obligations to the Grantee are limited by the amount of Grant Funds awarded as reflected on the face of the Small Dollar Grant Award.
- 2. Order of Precedence.** In the event of a conflict or inconsistency within this Agreement, such conflict or inconsistency shall be resolved by giving preference to the documents in the following order of priority: **(1)** the Small dollar Grant Award document; **(2)** these terms and conditions (including, if applicable, Addendum 1 below); and **(3)** any attachments, exhibits, specifications, or appendices, whether attached or incorporated by reference. Notwithstanding the above, if this Agreement has been funded, in whole or in part, with a Federal Award, in the event of a conflict between the Federal Grant and this Agreement, the provisions of the Federal Grant shall control. Grantee shall comply with all applicable Federal provisions at all times during the term of this Agreement. Any terms and conditions included on Grantee's forms or invoices not included in this Agreement are void.
- 3. Changes.** Once accepted in accordance with **§1**, this Agreement shall not be modified, superseded or otherwise altered, except in writing by the State and accepted by Grantee.
- 4. Definitions.** The following terms shall be construed and interpreted as follows: **(a) "Award"** means an award by a Recipient to a Subrecipient; **(b) "Budget"** means the budget for the Work described in this Agreement; **(c) "Business Day"** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in CRS §24-11-101(1); **(d) "UCC"** means the Uniform Commercial Code in CRS Title 4; **(e) "Effective Date"** means the date on which this Agreement is issued as shown on the face of the Small Dollar Grant Award; **(f) "Federal Award"** means an award of federal financial assistance or a cost-reimbursement contract, by a Federal Awarding Agency to the Recipient. "Federal Award" also means an agreement setting forth the terms and conditions of the Federal Award, which terms and conditions shall flow down to the Award unless such terms and conditions specifically indicate otherwise. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program; **(g) "Federal Awarding Agency"** means a Federal agency providing a Federal Award to a Recipient; **(h) "Grant Funds"** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement; **(i) "Matching Funds"** mean the funds provided by the Grantee to meet cost sharing requirements described in this Agreement; **(j) "Recipient"** means the State agency identified on the face of the Small Dollar Grant Award; **(k) "Subcontractor"** means third parties, if any, engaged by Grantee to aid in performance of the Work; **(l) "Subrecipient"** means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a program, but does not include an individual that is a beneficiary of such program; **(m) "Uniform Guidance"** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, identified as the 2 C.F.R. (Code of Federal Regulations) Part 200, commonly known as the "Super Circular," which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular a-50 on Single Audit Act follow-up; and **(n) "Work"** means the goods delivered or services, or both, performed pursuant to this Agreement and identified as Line Items on the face of the Small Dollar Grant Award.
- 5. Delivery.** Grantee shall furnish the Work in strict accordance with the specifications and price set forth in this Agreement. The State shall have no liability to compensate Grantee for the performance of any Work not specifically set forth in the Agreement.
- 6. Rights to Materials.** *[Not Applicable to Agreements issued either in whole in part for Information Technology, as defined in CRS § 24-37.5-102(2); in which case Addendum 1 §2 applies in lieu of this section.]* Unless specifically stated otherwise in this Agreement, all materials, including without limitation supplies, equipment, documents, content, information, or other material of any type, whether tangible or intangible (collectively "Materials"), furnished by the State to Grantee or delivered by Grantee to the State in performance of its obligations under this Agreement shall be the exclusive property the State. Grantee shall return or deliver all Materials to the State upon completion or termination of this Agreement.
- 7. Grantee Records.** Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work (including, but not limited to the operation of programs) performed under this Agreement (collectively "Grantee Records"). Unless otherwise specified by the State, the Grantee shall retain Grantee Records for a period (the "Record Retention Period") of three years following the date of submission to the State of the final expenditure report, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims or audit finding have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight, or indirect costs, and the State, may notify Grantee in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property. Grantee shall permit the State, the federal government, and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and transcribe Grantee Records during the Record Retention Period. Grantee shall make Grantee Records available during normal business hours at Grantee's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State. The State, in its discretion, may monitor Grantee's performance of its obligations under this Agreement using procedures as determined by the State. The federal government and any other duly authorized agent of a governmental agency, in its discretion, Grantee shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Grantee and this Agreement, and the State shall have the right, in its discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State will monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work. Grantee shall promptly submit to the State a copy of any final audit report of an audit performed

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on Grantee Records that relates to or affects this Agreement or the Work, whether the audit is conducted by Grantee, a State agency or the State's authorized representative, or a third party. If applicable, the Grantee may be required to perform a single audit under 2 CFR 200.501, *et seq.* Grantee shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

**8. Reporting.** If Grantee is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Grantee's ability to perform its obligations under this Agreement, Grantee shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State. Grantee shall disclose, in a timely manner, in writing to the State and the Federal Awarding Agency, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Award. The State or the Federal Awarding Agency may impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

**9. Conflicts of Interest.** Grantee acknowledges that with respect to this Agreement, even the appearance of a conflict of interest is harmful to the State's interests. Absent the State's prior written approval, Grantee shall refrain from any practices, activities, or relationships that reasonably may appear to be in conflict with the full performance of Grantee's obligations to the State under this Agreement. If a conflict or appearance of a conflict of interest exists, or if Grantee is uncertain as to such, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement. Grantee certifies that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's Services and Grantee shall not employ any person having such known interests.

**10. Taxes.** The State is exempt from federal excise taxes and from State and local sales and use taxes. The State shall not be liable for the payment of any excise, sales, or use taxes imposed on Grantee. A tax exemption certificate will be made available upon Grantee's request. Grantee shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Grantee may wish to have in place in connection with this Agreement.

**11. Payment.** Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Agreement that exceeds the Document Total shown on the face of the Small Dollar Grant Award. The State shall pay Grantee in the amounts and in accordance with the schedule and other conditions set forth in this Agreement. Grantee shall initiate payment requests by invoice to the State, in a form and manner approved by the State. The State shall pay Grantee for all amounts due within 45 days after receipt of an Awarding Agency's approved invoicing request, or in instances of reimbursement grant programs a request for reimbursement, compliant with Generally Accepted Accounting Principles (GAAP) and, if applicable Government Accounting Standards Board (GASB) of amount requested. Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate set forth in CRS §24-30-202(24) until paid in full. Interest shall not accrue if a good faith dispute exists as to the State's obligation to pay all or a portion of the amount due. Grantee shall invoice the State separately for interest on delinquent amounts due, referencing the delinquent payment, number of day's interest to be paid, and applicable interest rate. The acceptance of an invoice shall not constitute acceptance of any Work performed under this Agreement. Except as specifically agreed in this Agreement, Grantee shall be solely responsible for all costs, expenses, and other charges it incurs in connection with its performance under this Agreement.

**12. Term.** The parties' respective performances under this Agreement shall commence on the "Service From" date identified on the face of the Small Dollar Grant Award, unless otherwise specified, and shall terminate on the "Service To" date identified on the face of the Small Dollar Grant Award unless sooner terminated in accordance with the terms of this Agreement.

**13. Payment Disputes.** If Grantee disputes any calculation, determination or amount of any payment, Grantee shall notify the State in writing of its dispute within 30 days following the earlier to occur of Grantee's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Grantee and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

**14. Matching Funds.** Grantee shall provide Matching Funds, if required by this Agreement. If permitted under the terms of the grant and per this Agreement, Grantee may be permitted to provide Matching Funds prior to or during the course of the project or the match will be an in-kind match. Grantee shall report to the State regarding the status of such funds upon request. Grantee's obligation to pay all or any part of any Matching Funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Grantee and paid into Grantee's treasury or bank account. Grantee represents to the State that the amount designated "Grantee's Matching Funds" pursuant to this Agreement, has been legally appropriated for the purposes of this Agreement by its authorized representatives and paid into its treasury or bank account. Grantee does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of 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.

**15. Reimbursement of Grantee Costs.** If applicable, the State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in this Agreement for all allowable costs described in the grant except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to, and received approval from the State of the change, the change does not modify the total maximum amount of this Agreement, and the change does not modify any requirements of the Work. If applicable, the State shall reimburse Grantee for the properly documented allowable costs related to the Work after review and approval thereof, subject to the provisions of this Agreement. However, any costs incurred by Grantee prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs. Grantee's costs for Work performed after the "Service To" date identified on the face of the Small Dollar Grant Award, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable. The State shall only reimburse allowable costs described in this Agreement and shown in the Budget if those costs are (a) reasonable and necessary to accomplish the Work, and (b) equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the costs actually incurred).

**16. Close-Out.** Grantee shall close out this Award within 45 days after the "Service To" date identified on the face of the Small Dollar Grant Award, including any modifications. To complete close-out, Grantee shall submit to the State all deliverables (including documentation) as defined



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in this Agreement and Grantee's final reimbursement request or invoice. In accordance with the Agreement, the State may withhold a percentage of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete.

**17. Assignment.** Grantee's rights and obligations under this Agreement may not be transferred or assigned without the prior, written consent of the State and execution of a new agreement. Any attempt at assignment or transfer without such consent and new agreement 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 Agreement.

**18. Subcontracts.** Grantee shall not enter into any subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Grantee shall submit to the State a copy of each subcontract upon request by the State. All subcontracts entered into by Grantee in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement.

**19. Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations in accordance with the intent of the Agreement.

**20. Survival of Certain Agreement Terms.** Any provision of this Agreement that imposes an obligation on a party after termination or expiration of the Agreement shall survive the termination or expiration of the Agreement and shall be enforceable by the other party.

**21. Third Party Beneficiaries.** Except for the parties' respective successors and assigns, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

**22. Waiver.** A party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

**23. Indemnification. [Not Applicable to Inter-governmental agreements]** Grantee shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Grantee, or its employees, agents, Subcontractors, or assignees in connection with this Agreement. This shall include, without limitation, any and all costs, expenses, claims, damages, liabilities, court awards and other amounts incurred by the Indemnified Parties in relation to any claim that any work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right or any claim for loss or improper disclosure of any confidential information or personally identifiable information. If Grantee is a public agency prohibited by applicable law from indemnifying any party, then this section shall not apply.

**24. Notice.** All notices given under this Agreement shall be in writing, and shall be delivered to the contacts for each party listed on the face of the Small Dollar Grant Award. Either party may change its contact or contact information by notice submitted in accordance with this section without a formal modification to this Agreement.

**25. Insurance.** Except as otherwise specifically stated in this Agreement or any attachment or exhibit to this Agreement, Grantee shall obtain and maintain insurance as specified in this section at all times during the term of the Agreement: (a) workers' compensation insurance as required by state statute, and employers' liability insurance covering all Grantee employees acting within the course and scope of their employment, (b) Commercial general liability insurance written on an Insurance Services Office occurrence form, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows: \$1,000,000 each occurrence; \$1,000,000 general aggregate; \$1,000,000 products and completed operations aggregate; and \$50,000 any one fire, and (c) Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit. If Grantee will or may have access to any protected information, then Grantee shall also obtain and maintain insurance covering loss and disclosure of protected information and claims based on alleged violations of privacy right through improper use and disclosure of protected information with limits of \$1,000,000 each occurrence and \$1,000,000 general aggregate at all times during the term of the Small Dollar Grant Award. Additional insurance may be required as provided elsewhere in this Agreement or any attachment or exhibit to this Agreement. All insurance policies required by this Agreement shall be issued by insurance companies with an AM Best rating of A-VIII or better. If Grantee is a public agency within the meaning of the Colorado Governmental Immunity Act, then this section shall not apply and Grantee shall instead comply with the Colorado Governmental Immunity Act.

**26. Termination Prior to Grantee Acceptance.** If Grantee has not begun performance under this Agreement, the State may cancel this Agreement by providing written notice to the Grantee.

**27. Termination for Cause.** If Grantee refuses or fails to timely and properly perform any of its obligations under this Agreement with such diligence as will ensure its completion within the time specified in this Agreement, the State may notify Grantee in writing of non-performance and, if not corrected by Grantee within the time specified in the notice, terminate Grantee's right to proceed with the Agreement or such part thereof as to which there has been delay or a failure. Grantee shall continue performance of this Agreement to the extent not terminated. Grantee shall be liable for excess costs incurred by the State in procuring similar Work and the State may withhold such amounts, as the State deems necessary. If after rejection, revocation, or other termination of Grantee's right to proceed under the Colorado Uniform Commercial Code (CUCC) or this clause, the State determines for any reason that Grantee was not in default or the delay was excusable, the rights and obligations of the State and Grantee shall be the same as if the notice of termination had been issued pursuant to termination under **\$28**.

**28. Termination in Public Interest.** The State is entering into this Agreement for the purpose of carrying out the public interest of the State, as determined by its Governor, General Assembly, Courts, or Federal Awarding Agency. If this Agreement ceases to further the public interest of the State as determined by its Governor, General Assembly, Courts, or Federal Awarding Agency, the State, in its sole discretion, may terminate this Agreement in whole or in part and such termination shall not be deemed to be a breach of the State's obligations hereunder. This section shall not apply to a termination for cause, which shall be governed by **\$27**. A determination that this Small Dollar Grant Award should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. The State shall give written notice of termination to Grantee specifying the part of the Agreement terminated and when termination becomes effective. Upon receipt of notice of termination, Grantee shall not incur further obligations except as necessary to mitigate costs of performance. The State shall pay the Agreement price or rate for Work performed

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and accepted by State prior to the effective date of the notice of termination. The State's termination liability under this section shall not exceed the total Agreement price.

**29. Termination for Funds Availability.** The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Grantee beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Grant Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Grant Funds, the State's obligation to pay Grantee shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Grant Funds, and the State's liability for such payments shall be limited to the amount remaining of such Grant Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Work performed and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in §28.

**30. Grantee's Termination Under Federal Requirements.** If the Grant Funds include any federal funds, then Grantee may request termination of this Grant by sending notice to the State, or to the Federal Awarding Agency with a copy to the State, which includes the reasons for the termination and the effective date of the termination. If this Grant is terminated in this manner, then Grantee shall return any advanced payments made for Work that will not be performed prior to the effective date of the termination.

**31. Governmental Immunity.** Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, CRS §24-10-101, *et seq.*, 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, CRS §§24-30-1501, *et seq.* No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

**32. Grant Recipient.** Grantee shall perform its duties hereunder as a grant recipient and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Grantee 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 Grantee or any of its agents or employees. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Grantee 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.**

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

**34. Choice of Law, Jurisdiction and Venue. [Not Applicable to Inter-governmental agreements]** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver. Any provision incorporated herein by reference which purports to negate this or any other provision in this Agreement 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 or for any other reason shall not invalidate the remainder of this Agreement, to the extent capable of execution. Grantee shall exhaust administrative remedies in CRS §24-109-106, prior to commencing any judicial action against the State regardless of whether the Colorado Procurement Code applies to this Agreement.

**35. Prohibited Terms.** Nothing in this Agreement shall be construed as a waiver of any provision of CRS §24-106-109. Any term included in this Agreement that requires the State to indemnify or hold Grantee harmless; requires the State to agree to binding arbitration; limits Grantee's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with that statute in any way shall be void ab initio.

**36. Public Contracts for Services. [Not Applicable to offer, issuance, or sale of securities, investment advisory services, fund management services, sponsored projects, intergovernmental grant agreements, or information technology services or products and services]** Grantee certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Agreement, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c). Grantee shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract or agreement with a Subcontractor that fails to certify to Grantee that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Grantee shall (a) not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants during performance of this Agreement, (b) notify Subcontractor and the State within three days if Grantee has actual knowledge that Subcontractor is employing or contracting with an illegal alien for work under this Agreement, (c) terminate the subcontract if Subcontractor does not stop employing or contracting with the illegal alien within three days of receiving notice, and (d) comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Grantee participates in the Department program, Grantee shall deliver to the State a written, notarized affirmation that Grantee has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Grantee fails to comply with any requirement of this provision or CRS §8-17.5-101 *et seq.*, the State may terminate this Agreement for breach and, if so terminated, Grantee shall be liable for damages.

**37. Public Contracts with Natural Persons.** Grantee, if a natural person 18 years of age or older, hereby swears and affirms under penalty of perjury that the person (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 *et seq.*, and (c) has produced a form of identification required by CRS §24-76.5-103 prior to the date Grantee begins Work under terms of the Agreement.



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## ADDENDUM 1:

### Additional Terms & Conditions for Information Technology

IF ANY PART OF THE SUBJECT MATTER OF THIS AGREEMENT IS INFORMATION TECHNOLOGY, AS DEFINED IN CRS § 24-37.5-102 (2), THE FOLLOWING PROVISIONS ALSO APPLY TO THIS AGREEMENT.

**A. Definitions.** The following terms shall be construed and interpreted as follows: (a) **"CJI"** means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended, and all Criminal Justice Records as defined under CRS §24-72-302; (b) **"Incident"** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, pursuant to CRS §§24-37.5-401 *et seq.*; (c) **"PCI"** means payment card information including any data related to credit card holders' names, credit card numbers, or the other credit card information as may be protected by state or federal law; (d) **"PHI"** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium 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 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 including, without limitation, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act; (e) **"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, including, without limitation, all information defined as personally identifiable information in CRS §24-72-501; (f) **"State Confidential Information"** means any and all State data, information, and records, regardless of physical form; (g) **"State Fiscal Rules"** means those fiscal rules promulgated by the Colorado State Controller pursuant to CRS §24-30-202(13)(a); (h) **"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; (i) **"State Records"** means any and all State data, information, and records, regardless of physical form; (j) **"Tax Information"** means federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation, including, without limitation all information defined as federal tax information in Internal Revenue Service Publication 1075; and (k) **"Work Product"** means the tangible and intangible results of the delivery of goods and performance of services, 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, information, and any other results of the Work, but does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

**B. Intellectual Property.** Except to the extent specifically provided elsewhere in this Agreement, any State information, including without limitation pre-existing State software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials; or Work Product prepared by Grantee in the performance of its obligations under this Agreement shall be the exclusive property of the State (collectively, "State Materials"). All State Materials shall be delivered to the State by Grantee upon completion or termination of this Agreement. The State's exclusive rights in any Work Product prepared by Grantee shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works. Grantee shall not use, willingly allow, cause or permit any State Materials to be used for any purpose other than the performance of Grantee's obligations hereunder without the prior written consent of the State. The State shall maintain complete and accurate records relating to (a) its use of all Grantee and third party software licenses and rights to use any Grantee or third party software granted under this Agreement and its attachments to which the State is a party and (b) all amounts payable to Grantee pursuant to this Agreement and its attachments and the State's obligations under this Agreement or any amounts payable to Grantee in relation to this Agreement, which records shall contain sufficient information to permit Grantee to confirm the State's compliance with the use restrictions and payment obligations under this Agreement or to any third party use restrictions to which the State is a party. Grantee retains the exclusive rights, title and ownership to any and all pre-existing materials owned or licensed to Grantee including, but not limited to all pre-existing software, licensed products, associated source code, machine code, text images, audio, video, and third party materials, delivered by Grantee under the Agreement, whether incorporated in a deliverable or necessary to use a deliverable (collectively, "Grantee Property"). Grantee Property shall be licensed to the State as set forth in a State-approved license agreement (a) entered into as exhibits or attachments to this Agreement, (b) obtained by the State from the applicable third party Grantee, or (c) in the case of open source software, the license terms set forth in the applicable open source license agreement. Notwithstanding anything to the contrary herein, the State shall not be subject to any provision incorporated in any exhibit or attachment attached hereto, any provision incorporated in any terms and conditions appearing on any website, any provision incorporated into any click through or online agreements, or any provision incorporated into any other document or agreement between the parties that (a) requires the State or the State to indemnify Grantee or any other party, (b) is in violation of State laws, regulations, rules, State Fiscal Rules, policies, or other State requirements as deemed solely by the State, or (c) is contrary to this Agreement.

**C. Information Confidentiality.** Grantee shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Grantee shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Agreement, permitted by law, or approved in writing by the State. If Grantee will or may have access to any State Confidential Information or any other protected information, Grantee shall provide for the security of all State Confidential Information in accordance with all applicable laws, rules, policies, publications, and guidelines. Grantee shall comply with all Colorado Office of Information Security ("OIS") policies and procedures which OIS has issued pursuant to CRS §§24-37.5-401 through 406 and 8 CCR §1501-5 and posted at <http://oit.state.co.us/ois>, all information security and privacy obligations imposed by any federal, state, or local statute or regulation, or by any industry standards or guidelines, as applicable based on the classification of the data relevant to Grantee's performance under this Agreement. Such obligations may arise from: Health Information Portability and Accountability Act (HIPAA); IRS Publication 1075; Payment Card Industry Data Security Standard (PCI-DSS); FBI Criminal Justice Information Service Security Addendum; Centers for Medicare & Medicaid Services (CMS) Minimum Acceptable Risk Standards for Exchanges; and Electronic Information Exchange

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Security Requirements and Procedures for State and Local Agencies Exchanging Electronic Information with The Social Security Administration. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

**D. 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 Agreement. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force at all times the agent, employee, assign, or Subcontractors has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions if requested by the State.

**E. Use, Security, and Retention.** Grantee shall use, hold, and maintain State Confidential Information in compliance with any and all applicable laws and regulations only in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information. 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 Agreement, 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 Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

**F. 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. Unless Grantee can establish none of Grantee or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Grantee shall be responsible for the cost of notifying each person who may have been impacted by the Incident. 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. The State may adjust or direct modifications to this plan, in its sole discretion and Grantee shall make all modifications as directed by the State. If Grantee cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Grantee shall reimburse the State for the reasonable actual costs thereof.

**G. Data Protection and Handling.** Grantee shall ensure that all State Records and Work Product in the possession of Grantee or any Subcontractors are protected and handled in accordance with the requirements of this Agreement at all times. Upon request by the State made any time prior to 60 days following the termination of this Agreement for any reason, whether or not this Agreement is expiring or terminating, Grantee shall make available to the State a complete and secure download file of all data that is encrypted and appropriately authenticated. This download file shall be made available to the State within 10 Business Days following the State's request, and shall contain, without limitation, all State Records, Work Product, and any other information belonging to the State. Upon the termination of Grantee's services under this Agreement, Grantee shall, as directed by the State, return all State Records provided by the State to Grantee, and the copies thereof, to the State or destroy all such State Records and certify to the State that it has done so. If legal obligations imposed upon Grantee prevent Grantee from returning or destroying all or part of the State Records provided by the State, Grantee shall guarantee the confidentiality of all State Records in Grantee's possession and will not actively process such data. The State retains the right to use the established operational services to access and retrieve State Records stored on Grantee's infrastructure at its sole discretion and at any time.

**H. Compliance.** If applicable, Grantee shall review, on a semi-annual basis, all OIS policies and procedures which OIS has promulgated pursuant to CRS §§ 24-37.5-401 through 406 and 8 CCR § 1501-5 and posted at <http://oit.state.co.us/ois>, to ensure compliance with the standards and guidelines published therein. Grantee shall cooperate, and shall cause its Subcontractors to cooperate, with the performance of security audit and penetration tests by OIS or its designee.

**I. Safeguarding PII.** If Grantee or any of its Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, all State requirements relating to non-disclosure, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall take full responsibility for the security of all PII in its possession or in the possession of its Subcontractors, and shall hold the State harmless for any damages or liabilities resulting from the unauthorized disclosure or loss thereof. Grantee shall be a "Third-Party Service Provider" as defined in CRS §24-73-103(1)(i) and shall maintain security procedures and practices consistent with CRS §§24-73-101 *et seq.*

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

**K. Information Technology.** To the extent that Grantee provides physical or logical storage of State Records; Grantee creates, uses, processes, discloses, transmits, or disposes of State Records; or Grantee is otherwise given physical or logical access to State Records in order to perform Grantee's obligations under this Agreement, the following terms shall apply. Grantee shall, and shall cause its Subcontractors, to: Provide physical and logical protection for all hardware, software, applications, and data that meets or exceeds industry standards and the requirements of this Agreement; Maintain network, system, and application security, which includes, but is not limited to, network firewalls, intrusion detection (host and network), annual security testing, and improvements or enhancements consistent with evolving industry standards; Comply with State and federal rules and regulations related to overall security, privacy, confidentiality, integrity, availability, and auditing; Provide that security is not compromised by unauthorized access to workspaces, computers, networks, software, databases, or other physical or electronic environments; Promptly report all Incidents, including Incidents that do not result in unauthorized disclosure or loss of data integrity, to a designated representative of the OIS; Comply with all rules, policies, procedures, and standards issued by the Governor's Office of Information Technology (OIT), including project lifecycle methodology and governance, technical standards, documentation, and other requirements posted at [www.oit.state.co.us/about/policies](http://www.oit.state.co.us/about/policies). Grantee shall not allow remote access to State Records from outside the United States, including access by

## STATE CONTROLLER

Grantee's employees or agents, without the prior express written consent of OIS. Grantee shall communicate any request regarding non-U.S. access to State Records to the State. The State, acting by and through OIS, shall have sole discretion to grant or deny any such request.

Nicholas A. Gradisar  
Mayor

Greg Pedroza  
Director of Aviation



Pueblo Memorial Airport  
31201 Bryan Circle, Ste. 200  
Pueblo, CO 81001  
Phone (719) 553-2760  
Fax (719) 553-2761

To: Ms. Heather Graham, President of the City Council  
Mr. Nicholas A. Gradisar, Mayor

I hereby certify that I have reviewed and am familiar with the following documents and, to the best of my knowledge and belief, said documents are true and correct and do not contain any false or untrue fact, statement, condition, certification, or assurance.

Accepting and appropriating funds from the Colorado Department of Transportation Division of Aeronautics Discretionary Aviation Grant for the Rehabilitation of Runway 8R-26L and Taxiway A2 removal.

  
\_\_\_\_\_  
Greg Pedroza  
Director of Aviation

June 1, 2023  
Date



**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 12, 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 ESTABLISHING PROJECT PL2303 - EVALUATION OF LANDFILL OPERATION ALTERNATIVES, TRANSFERRING \$150,000 FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND, AND BUDGETING AND APPROPRIATING SAID FUNDS IN THE AMOUNT OF \$150,000 TO PROJECT NO. PL2303

**SUMMARY:**

This Ordinance establishes Project No. PL2303 - Evaluation of Landfill Operation Alternatives, transfers \$150,000.00 from the unappropriated fund balance of the General Fund, and budgets and appropriates total funds in the amount of \$150,000.00 into the newly-created project account.

**PREVIOUS COUNCIL ACTION:**

None.

**BACKGROUND:**

Waste Connections has contacted the City requesting a change to the Certificate of Designation for its operations at the South Side Landfill. The potential impacts of this request are significant to the City and its residents and businesses. Outside consultants with specialized experience in landfill design, construction, and management will be required to assist City staff with reviewing Waste Connection's proposals. The project established under this Ordinance will provide funding that will allow the City to engage technical consultants and special counsel to review proposals and information received from Waste Connections and to identify and evaluate a range of strategic alternatives related to landfill and waste management operations benefiting the City for decades to come.

**FINANCIAL IMPLICATIONS:**

Funds in the amount of \$150,000.00 will be transferred from the unappropriated fund

balance of the General Fund and budgeted and appropriated into the newly-created project account.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable to this Ordinance.

**STAKEHOLDER PROCESS:**

Not applicable to this Ordinance.

**ALTERNATIVES:**

Failure to approve this Ordinance will prevent the allocation of funding necessary for the procurement of the technical and legal professional services required to properly evaluate strategic alternatives related to landfill operations and waste management within the City.

**RECOMMENDATION:**

Approval of the Ordinance

**ATTACHMENTS:**

None

ORDINANCE NO. 10487

AN ORDINANCE ESTABLISHING PROJECT PL2303 - EVALUATION OF LANDFILL OPERATION ALTERNATIVES, TRANSFERRING \$150,000 FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND, AND BUDGETING AND APPROPRIATING SAID FUNDS IN THE AMOUNT OF \$150,000 TO PROJECT NO. PL2303

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

SECTION 1.

The Evaluation of Landfill Operation Alternatives project, PL2303, is hereby established.

SECTION 2.

Funds in the amount of \$150,000.00 are hereby transferred from the unappropriated fund balance of the General Fund and budgeted and appropriated into the Evaluation of Landfill Operation Alternatives Project No. PL2303.

SECTION 3.

In accordance with the provisions of Section 6-7 of the Charter of the City of Pueblo, City Council hereby approves compensation for special counsel, if retained by the City Attorney, in an amount not to exceed \$50,000.00 for services related to and to be paid from Project No. PL2303.

SECTION 4.

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

SECTION 5.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

**Action by City Council:**

Introduced and initial adoption of Ordinance by City Council on June 12, 2023.

Final adoption of Ordinance by City Council on June 26, 2023.

  
\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☒ Approved on June 29, 2023.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

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\_\_\_\_\_  
Mayor

**Action by City Council After Disapproval by the Mayor:**

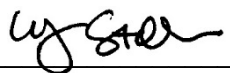
☐ Council did not act to override the Mayor's veto.

☐ 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:** June 12, 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 ESTABLISHING ACCOUNT PROJECT CI2320 - FIRE STATION NO. 6 LAND PROCUREMENT, TRANSFERRING \$70,000 FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND, BUDGETING AND APPROPRIATING SAID FUNDS IN THE AMOUNT OF \$70,000 TO ACCOUNT PROJECT NO. CI2320, AND APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT TO BUY AND SELL REAL ESTATE FOR A PORTION OF LOTS 7 AND 8, BLOCK 2, TRINITY SUBDIVISION, CITY OF PUEBLO COLORADO

**SUMMARY:**

This Emergency Ordinance establishes account Project No. CI2320 - Fire Station No. 6 Land Procurement, transfers \$70,000.00 from the unappropriated fund balance of the General Fund, budgets and appropriates total funds in the amount of \$70,000.00 into the newly-created project account, and approves and authorizes the Mayor to execute a contract to buy and sell real property (specifically, portions of Lots 7 and 8 of Block 2 of the Trinity Subdivision in the City of Pueblo.

**PREVIOUS COUNCIL ACTION:**

None.

**BACKGROUND:**

This Emergency Ordinance establishes a project account designated specifically for the procurement of additional land to support the ongoing project to design and construct the new Fire Station No. 6 on Victory Lane on the City's east side. During the design process, it became apparent that the configuration of the lots owned by the City of Pueblo did not have sufficient depth to accommodate a driveway that would allow fire apparatus to pull through the vehicle bay. An additional area of approximately 0.85 acres will be required to construct the new fire station. The City of Pueblo is prepared to enter into an agreement to purchase the property and this Ordinance will also

approve the Mayor to execute the agreement on behalf of the City of Pueblo.

**FINANCIAL IMPLICATIONS:**

Funds in the amount of \$70,000.00 shall be transferred from the unappropriated fund balance of the General Fund and budgeted and appropriated into the newly-created account Project No. C12320 - Fire Station No. 6 Land Procurement.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable to this Ordinance.

**STAKEHOLDER PROCESS:**

Not applicable to this Ordinance.

**ALTERNATIVES:**

Failure to approve this Emergency Ordinance will prevent the procurement of the additional parcel necessary to design and construct the pull-through access driveway at Fire Station No. 6.

**RECOMMENDATION:**

Approval of the Ordinance

**ATTACHMENTS:**

None

ORDINANCE NO. 10488

AN ORDINANCE ESTABLISHING ACCOUNT PROJECT CI2320 - FIRE STATION NO. 6 LAND PROCUREMENT, TRANSFERRING \$70,000 FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND, BUDGETING AND APPROPRIATING SAID FUNDS IN THE AMOUNT OF \$70,000 TO ACCOUNT PROJECT NO. CI2320, AND APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT TO BUY AND SELL REAL ESTATE FOR A PORTION OF LOTS 7 AND 8, BLOCK 2, TRINITY SUBDIVISION, CITY OF PUEBLO COLORADO

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

SECTION 1.

The Fire Station No. 6 Land Procurement project, account tProject No. CI2320, is hereby established.

SECTION 2.

Funds in the amount of \$70,000.00 are hereby transferred from the unappropriated fund balance of the General Fund and budgeted and appropriated into the Fire Station No. 6 Land Procurement account Project No. CI2320.

SECTION 3.

The Contract to Buy and Sell Real Estate between the City of Pueblo, a Colorado Municipal Corporation, and Global Proposal, LLC., a copy of which is attached hereto ("Agreement"), having been approved as to form by the City Attorney, is hereby approved. The Mayor is authorized to execute and deliver said Agreement in the name of the City of Pueblo. The City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 4.

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

**SECTION 5.**

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

**Action by City Council:**

Introduced and initial adoption of Ordinance by City Council on June 12, 2023.

Final adoption of Ordinance by City Council on June 26, 2023.



\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☒ Approved on June 29, 2023.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



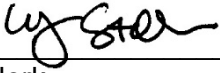
\_\_\_\_\_  
Mayor

**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



**RE/MAX**  
of Pueblo, Inc.

**RE/MAX of Pueblo, Inc.**  
511 W. 29th St., Suite A Pueblo, CO 81008  
Greg Hahn  
Sales Associate/Broker The Greg Hahn Sales Team  
Ph: 719-546-1717

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (CBS4-6-21) (Mandatory 1-22)

**THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.**

## CONTRACT TO BUY AND SELL REAL ESTATE (LAND)

(☒ **Property with No Residences**)  
(☐ **Property with Residences-Residential Addendum Attached**)

Date:

### AGREEMENT

**1. AGREEMENT.** Buyer agrees to buy and Seller agrees to sell the Property described below on the terms and conditions set forth in this contract (Contract).

**2. PARTIES AND PROPERTY.**

**2.1. Buyer.** City of Pueblo (Buyer) will take title to the Property described below as ☐ **Joint Tenants**  
☐ **Tenants In Common** ☒ **Other** a Municipal Corporation.

**2.2. No Assignability.** This Contract **IS NOT** assignable by Buyer unless otherwise specified in **Additional Provisions**.

**2.3. Seller.** Global Proposal LLC (Seller) is the current owner of the Property described below.

**2.4. Property.** The Property is the following legally described real estate in the County of Pueblo, Colorado (insert legal description):

A portion of Lot 7 & 8, Block 2, The Trinity Sub being approximately .85 acres +/- (See Exhibit A)

known as: TBD TBD, Pueblo, CO 81001

together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded (Property).

**2.5. Inclusions.** The Purchase Price includes the following items (Inclusions):

**2.5.1. Inclusions.** The following items, whether fixtures or personal property, are included in the Purchase Price unless excluded under **Exclusions**:

vacant land only

If any additional items are attached to the Property after the date of this Contract, such additional items are also included in the Purchase Price.

**2.5.2. Encumbered Inclusions.** Any Inclusions owned by Seller (i.e., owned solar panels) must be conveyed at Closing by Seller free and clear of all taxes (except personal property and general real estate taxes for the year of Closing), liens and encumbrances, except:

no exceptions

**2.5.3. Personal Property Conveyance.** Conveyance of all personal property will be by bill of sale or other applicable legal instrument.

**2.5.4. Leased Items.** The following personal property is currently leased to Seller which will be transferred to Buyer at Closing (Leased Items):

none

**2.6. Exclusions.** The following items are excluded (Exclusions):

none

**2.7. Water Rights, Well Rights, Water and Sewer Taps.**

☐ **2.7.1. Deeded Water Rights.** The following legally described water rights:

none

Any deeded water rights will be conveyed by a good and sufficient none deed at Closing.

☐ **2.7.2. Other Rights Relating to Water.** The following rights relating to water not included in §§ 2.7.1., 2.7.3., 2.7.4. and 2.7.5., will be transferred to Buyer at Closing:

none

☐ **2.7.3. Well Rights.** Seller agrees to supply required information to Buyer about the well. Buyer understands that if the well to be transferred is a "Small Capacity Well" or a "Domestic Exempt Water Well" used for ordinary household purposes, Buyer must, prior to or at Closing, complete a Change in Ownership form for the well. If an existing well has not been registered with the Colorado Division of Water Resources in the Department of Natural Resources (Division), Buyer must complete a registration of existing well form for the well and pay the cost of registration. If no person will be providing a closing service in connection with the transaction, Buyer must file the form with the Division within sixty days after Closing. The Well Permit # is n/a.

☐ **2.7.4. Water Stock Certificates.** The water stock certificates to be transferred at Closing are as follows:

n/a

**2.7.5. Water and Sewer Taps.** The parties agree that water and sewer taps listed below for the Property are being conveyed as part of the Purchase Price as follows:

n/a

**If any water or sewer taps are included in the sale, Buyer is advised to obtain, from the provider, written confirmation of the amount remaining to be paid, if any, time and other restrictions for transfer and use of the taps.**

**2.7.6. Conveyance.** If Buyer is to receive any rights to water pursuant to § 2.7.2. (Other Rights Relating to Water), § 2.7.3. (Well Rights), § 2.7.4. (Water Stock Certificates), or § 2.7.5. (Water and Sewer Taps), Seller agrees to convey such rights to Buyer by executing the applicable legal instrument at Closing.

**2.7.7. Water Rights Review.** Buyer ☐ **Does** ☐ **Does Not** have a Right to Terminate if examination of the Water Rights is unsatisfactory to Buyer on or before the **Water Rights Examination Deadline**.

**2.8. Growing Crops.** With respect to growing crops, Seller and Buyer agree as follows:

n/a

### **3. DATES, DEADLINES AND APPLICABILITY.**

#### **3.1. Dates and Deadlines.**

| Item No. | Reference | Event                                          | Date or Deadline |
|----------|-----------|------------------------------------------------|------------------|
| 1        | § 3       | Time of Day Deadline                           | <b>5:00 p.m.</b> |
| 2        | § 4       | Alternative Earnest Money Deadline             | <b>5 MEC</b>     |
|          |           | <b>Title</b>                                   |                  |
| 3        | § 8       | Record Title Deadline (and Tax Certificate)    | <b>30 MEC</b>    |
| 4        | § 8       | Record Title Objection Deadline                | <b>40 MEC</b>    |
| 5        | § 8       | Off-Record Title Deadline                      | <b>30 MEC</b>    |
| 6        | § 8       | Off-Record Title Objection Deadline            | <b>40 MEC</b>    |
| 7        | § 8       | Title Resolution Deadline                      | <b>50 MEC</b>    |
| 8        | § 8       | Third Party Right to Purchase/Approve Deadline | <b>n/a</b>       |
|          |           | <b>Owners' Association</b>                     |                  |
| 9        | § 7       | Association Documents Deadline                 | <b>n/a</b>       |
| 10       | § 7       | Association Documents Termination Deadline     | <b>n/a</b>       |
|          |           | <b>Seller's Disclosures</b>                    |                  |

|    |      |                                                                             |                        |
|----|------|-----------------------------------------------------------------------------|------------------------|
| 11 | § 10 | Seller's Property Disclosure Deadline                                       | <i>n/a</i>             |
| 12 | § 10 | Lead-Based Paint Disclosure Deadline<br>(if Residential Addendum attached)  | <i>n/a</i>             |
|    |      | <b>Loan and Credit</b>                                                      |                        |
| 13 | § 5  | New Loan Application Deadline                                               | <i>n/a</i>             |
| 14 | § 5  | New Loan Terms Deadline                                                     | <i>n/a</i>             |
| 15 | § 5  | New Loan Availability Deadline                                              | <i>n/a</i>             |
| 16 | § 5  | Buyer's Credit Information Deadline                                         | <i>n/a</i>             |
| 17 | § 5  | Disapproval of Buyer's Credit Information Deadline                          | <i>n/a</i>             |
| 18 | § 5  | Existing Loan Deadline                                                      | <i>n/a</i>             |
| 19 | § 5  | Existing Loan Termination Deadline                                          | <i>n/a</i>             |
| 20 | § 5  | Loan Transfer Approval Deadline                                             | <i>n/a</i>             |
| 21 | § 4  | Seller or Private Financing Deadline                                        | <i>n/a</i>             |
|    |      | <b>Appraisal</b>                                                            |                        |
| 22 | § 6  | Appraisal Deadline                                                          | <i>n/a</i>             |
| 23 | § 6  | Appraisal Objection Deadline                                                | <i>n/a</i>             |
| 24 | § 6  | Appraisal Resolution Deadline                                               | <i>n/a</i>             |
|    |      | <b>Survey</b>                                                               |                        |
| 25 | § 9  | New ILC or New Survey Deadline                                              | <b>40 MEC</b>          |
| 26 | § 9  | New ILC or New Survey Objection Deadline                                    | <i>n/a</i>             |
| 27 | § 9  | New ILC or New Survey Resolution Deadline                                   | <i>n/a</i>             |
|    |      | <b>Inspection and Due diligence</b>                                         |                        |
| 28 | § 2  | Water Rights Examination Deadline                                           | <i>n/a</i>             |
| 29 | § 8  | Mineral Rights Examination Deadline                                         | <i>n/a</i>             |
| 30 | § 10 | Inspection Termination Deadline                                             | <b>50 MEC</b>          |
| 31 | § 10 | Inspection Objection Deadline                                               | <b>40 MEC</b>          |
| 32 | § 10 | Inspection Resolution Deadline                                              | <b>50 MEC</b>          |
| 33 | § 10 | Property Insurance Termination Deadline                                     | <i>n/a</i>             |
| 34 | § 10 | Due Diligence Documents Delivery Deadline                                   | <b>30 MEC</b>          |
| 35 | § 10 | Due Diligence Documents Objection Deadline                                  | <b>40 MEC</b>          |
| 36 | § 10 | Due Diligence Documents Resolution Deadline                                 | <b>50 MEC</b>          |
| 37 | § 10 | Environmental Inspection Termination Deadline                               | <b>50 MEC</b>          |
| 38 | § 10 | ADA Evaluation Termination Deadline                                         | <i>n/a</i>             |
| 39 | § 10 | Conditional Sale Deadline                                                   | <i>n/a</i>             |
| 40 | § 10 | Lead-Based Paint Termination Deadline<br>(if Residential Addendum attached) | <i>n/a</i>             |
| 41 | § 11 | Estoppel Statements Deadline                                                | <i>n/a</i>             |
| 42 | § 11 | Estoppel Statements Termination Deadline                                    | <i>n/a</i>             |
|    |      | <b>Closing and Possession</b>                                               |                        |
| 43 | § 12 | Closing Date                                                                | <b>9/1/2023</b> Friday |
| 44 | § 17 | Possession Date                                                             | <b>closing</b>         |
| 45 | § 17 | Possession Time                                                             | <b>closing</b>         |



|    |      |                          |                 |
|----|------|--------------------------|-----------------|
| 46 | § 27 | Acceptance Deadline Date | 7/7/2023 Friday |
| 47 | § 27 | Acceptance Deadline Time | 5:00 p.m.       |
| 48 | n/a  | n/a                      | n/a             |
| 49 | n/a  | n/a                      | n/a             |

**3.2. Applicability of Terms.** If any deadline blank in § 3.1. (Dates and Deadlines) is left blank or completed with "N/A", or the word "Deleted," such deadline is not applicable and the corresponding provision containing the deadline is deleted. Any box checked in this Contract means the corresponding provision applies. If no box is checked in a provision that contains a selection of "None", such provision means that "None" applies.

The abbreviation "MEC" (mutual execution of this Contract) means the date upon which both parties have signed this Contract. The abbreviation "N/A" as used in this Contract means not applicable.

### 3.3. Day; Computation of Period of Days; Deadlines.

**3.3.1. Day.** As used in this Contract, the term "day" means the entire day ending at 11:59 p.m., United States Mountain Time (Standard or Daylight Savings, as applicable). Except however, if a **Time of Day Deadline** is specified in § 3.1. (Dates and Deadlines), all Objection Deadlines, Resolution Deadlines, Examination Deadlines and Termination Deadlines will end on the specified deadline date at the time of day specified in the **Time of Day Deadline**, United States Mountain Time. If **Time of Day Deadline** is left blank or "N/A" the deadlines will expire at 11:59 p.m., United States Mountain Time.

**3.3.2. Computation of Period of Days.** In computing a period of days (e.g., three days after MEC), when the ending date is not specified, the first day is excluded and the last day is included.

**3.3.3. Deadlines.** If any deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline ☐ **Will** ☐ **Will Not** be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be checked, the deadline will not be extended.

## 4. PURCHASE PRICE AND TERMS.

**4.1. Price and Terms.** The Purchase Price set forth below is payable in U.S. Dollars by Buyer as follows:

| Item No. | Reference | Item               | Amount       | Amount       |
|----------|-----------|--------------------|--------------|--------------|
| 1        | § 4.1.    | Purchase Price     | \$ 40,000.00 |              |
| 2        | § 4.3.    | Earnest Money      |              | \$ 2,000.00  |
| 3        | § 4.5.    | New Loan           |              | \$ 0.00      |
| 4        | § 4.6.    | Assumption Balance |              | \$ 0.00      |
| 5        | § 4.7.    | Private Financing  |              | \$ 0.00      |
| 6        | § 4.7.    | Seller Financing   |              | \$ 0.00      |
| 7        | n/a       | n/a                |              | \$           |
| 8        | n/a       | n/a                |              | \$           |
| 9        | § 4.4.    | Cash at Closing    |              | \$ 38,000.00 |
| 10       |           | Total              | \$ 40,000.00 | \$ 40,000.00 |

**4.2. Seller Concession.** At Closing, Seller will credit to Buyer \$n/a (Seller Concession). The Seller Concession may be used for any Buyer fee, cost, charge or expenditure to the extent the amount is allowed by the Buyer's lender and is included in the Closing Statement or Closing Disclosure at Closing. Examples of allowable items to be paid for by the Seller Concession include, but are not limited to: Buyer's closing costs, loan discount points, loan origination fees, prepaid items and any other fee, cost, charge, expense or expenditure. Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer elsewhere in this Contract.

**4.3. Earnest Money.** The Earnest Money set forth in this Section, in the form of a check, will be payable to and held by Land Title (Earnest Money Holder), in its trust account, on behalf of both Seller and Buyer. The Earnest Money deposit must be tendered, by Buyer, with this Contract unless the parties mutually

agree to an **Alternative Earnest Money Deadline** for its payment. The parties authorize delivery of the Earnest Money deposit to the company conducting the Closing (Closing Company), if any, at or before Closing. In the event Earnest Money Holder has agreed to have interest on Earnest Money deposits transferred to a fund established for the purpose of providing affordable housing to Colorado residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited with the Earnest Money Holder in this transaction will be transferred to such fund.

**4.3.1. Alternative Earnest Money Deadline.** The deadline for delivering the Earnest Money, if other than at the time of tender of this Contract, is as set forth as the **Alternative Earnest Money Deadline**.

**4.3.2. Disposition of Earnest Money.** If Buyer has a Right to Terminate and timely terminates, Buyer is entitled to the return of Earnest Money as provided in this Contract. If this Contract is terminated as set forth in § 24 and, except as provided in § 23 (Earnest Money Dispute), if the Earnest Money has not already been returned following receipt of a Notice to Terminate, Seller agrees to execute and return to Buyer or Broker working with Buyer, written mutual instructions (e.g., Earnest Money Release form), within three days of Seller's receipt of such form. If Seller is entitled to the Earnest Money, and, except as provided in § 23 (Earnest Money Dispute), if the Earnest Money has not already been paid to Seller, following receipt of an Earnest Money Release form, Buyer agrees to execute and return to Seller or Broker working with Seller, written mutual instructions (e.g., Earnest Money Release form), within three days of Buyer's receipt.

**4.3.2.1. Seller Failure to Timely Return Earnest Money.** If Seller fails to timely execute and return the Earnest Money Release Form, or other written mutual instructions, Seller is in default and liable to Buyer as set forth in **"If Seller is in Default", § 20.2. and § 21**, unless Seller is entitled to the Earnest Money due to a Buyer default.

**4.3.2.2. Buyer Failure to Timely Release Earnest Money.** If Buyer fails to timely execute and return the Earnest Money Release Form, or other written mutual instructions, Buyer is in default and liable to Seller as set forth in **"If Buyer is in Default, § 20.1. and § 21**, unless Buyer is entitled to the Earnest Money due to a Seller Default.

#### **4.4. Form of Funds; Time of Payment; Available Funds.**

**4.4.1. Good Funds.** All amounts payable by the parties at Closing, including any loan proceeds, Cash at Closing and closing costs, must be in funds that comply with all applicable Colorado laws, including electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good Funds).

**4.4.2. Time of Payment.** All funds, including the Purchase Price to be paid by Buyer, must be paid before or at Closing or as otherwise agreed in writing between the parties to allow disbursement by Closing Company at Closing **OR SUCH NONPAYING PARTY WILL BE IN DEFAULT**.

**4.4.3. Available Funds.** Buyer represents that Buyer, as of the date of this Contract, ☒ **Does** ☐ **Does Not** have funds that are immediately verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

**4.5. New Loan.** (Omitted as inapplicable)

**4.6. Assumption.** (Omitted as inapplicable)

**4.7. Seller or Private Financing.** (Omitted as inapplicable)

### **TRANSACTION PROVISIONS**

#### **5. FINANCING CONDITIONS AND OBLIGATIONS.** (Omitted as inapplicable)

**5.3. Credit Information.** (Omitted as inapplicable)

**5.4. Existing Loan Review.** (Omitted as inapplicable)

#### **6. APPRAISAL PROVISIONS.**

**6.1. Appraisal Definition.** An "Appraisal" is an opinion of value prepared by a licensed or certified appraiser, engaged on behalf of Buyer or Buyer's lender, to determine the Property's market value (Appraised Value). The Appraisal may also set forth certain lender requirements, replacements, removals or repairs necessary on or to the Property as a condition for the Property to be valued at the Appraised Value.

**6.2. Appraised Value.** The applicable appraisal provision set forth below applies to the respective loan type set forth in § 4.5.3., or if a cash transaction (i.e., no financing), § 6.2.1. applies.

**6.2.1. Conventional/Other.** Buyer has the right to obtain an Appraisal. If the Appraised Value is less than the Purchase Price, or if the Appraisal is not received by Buyer on or before **Appraisal Deadline** Buyer may, on or before **Appraisal Objection Deadline**:

**6.2.1.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated; or

**6.2.1.2. Appraisal Objection.** Deliver to Seller a written objection accompanied by either a copy of the Appraisal or written notice from lender that confirms the Appraised Value is less than the Purchase Price (Lender Verification).

**6.2.1.3. Appraisal Resolution.** If an Appraisal Objection is received by Seller, on or before **Appraisal Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Appraisal Resolution Deadline**, this Contract will terminate on the **Appraisal Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the Appraisal Objection before such termination, (i.e., on or before expiration of **Appraisal Resolution Deadline**).

**6.3. Lender Property Requirements.** If the lender imposes any written requirements, replacements, removals or repairs, including any specified in the Appraisal (Lender Property Requirements) to be made to the Property (e.g., roof repair, repainting), beyond those matters already agreed to by Seller in this Contract, this Contract terminates on the earlier of three days following Seller's receipt of the Lender Property Requirements, or Closing, unless prior to termination: (1) the parties enter into a written agreement to satisfy the Lender Property Requirements; (2) the Lender Property Requirements have been completed; or (3) the satisfaction of the Lender Property Requirements is waived in writing by Buyer.

**6.4. Cost of Appraisal.** Cost of the Appraisal to be obtained after the date of this Contract must be timely paid by ☐ Buyer ☐ Seller. The cost of the Appraisal may include any and all fees paid to the appraiser, appraisal management company, lender's agent or all three.

**7. OWNERS' ASSOCIATIONS.** This Section is applicable if the Property is located within one or more Common Interest Communities and subject to one or more declarations (Association).

**7.1. Common Interest Community Disclosure.** **THE PROPERTY IS LOCATED WITHIN A COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY. THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS' ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.**

**7.2. Association Documents to Buyer.** Seller is obligated to provide to Buyer the Association Documents (defined below), at Seller's expense, on or before **Association Documents Deadline**. Seller authorizes the Association to provide the Association Documents to Buyer, at Seller's expense. Seller's obligation to provide the Association Documents is fulfilled upon Buyer's receipt of the Association Documents, regardless of who provides such documents.

**7.3. Association Documents.** Association documents (Association Documents) consist of the following:

**7.3.1.** All Association declarations, articles of incorporation, bylaws, articles of organization, operating agreements, rules and regulations, party wall agreements and the Association's responsible governance policies adopted under § 38-33.3-209.5, C.R.S.;

**7.3.2.** Minutes of: (1) the annual owners' or members' meeting and (2) any executive boards' or managers' meetings; such minutes include those provided under the most current annual disclosure required under § 38-33.3-209.4, C.R.S. (Annual Disclosure) and minutes of meetings, if any, subsequent to the minutes

disclosed in the Annual Disclosure. If none of the preceding minutes exist, then the most recent minutes, if any (§§ 7.3.1. and 7.3.2., collectively, Governing Documents); and

**7.3.3.** List of all Association insurance policies as provided in the Association's last Annual Disclosure, including, but not limited to, property, general liability, association director and officer professional liability and fidelity policies. The list must include the company names, policy limits, policy deductibles, additional named insureds and expiration dates of the policies listed (Association Insurance Documents);

**7.3.4.** A list by unit type of the Association's assessments, including both regular and special assessments as disclosed in the Association's last Annual Disclosure;

**7.3.5.** The Association's most recent financial documents which consist of: (1) the Association's operating budget for the current fiscal year, (2) the Association's most recent annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the Association's last Annual Disclosure, (3) the results of the Association's most recent available financial audit or review, (4) list of the fees and charges (regardless of name or title of such fees or charges) that the Association's community association manager or Association will charge in connection with the Closing including, but not limited to, any fee incident to the issuance of the Association's statement of assessments (Status Letter), any rush or update fee charged for the Status Letter, any record change fee or ownership record transfer fees (Record Change Fee), fees to access documents, (5) list of all assessments required to be paid in advance, reserves or working capital due at Closing and (6) reserve study, if any (§§ 7.3.4. and 7.3.5., collectively, Financial Documents);

**7.3.6.** Any written notice from the Association to Seller of a "construction defect action" under § 38-33.3-303.5, C.R.S. within the past six months and the result of whether the Association approved or disapproved such action (Construction Defect Documents). Nothing in this Section limits the Seller's obligation to disclose adverse material facts as required under § 10.2. (Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition) including any problems or defects in the common elements or limited common elements of the Association property.

**7.4. Conditional on Buyer's Review.** Buyer has the right to review the Association Documents. Buyer has the Right to Terminate under § 24.1., on or before **Association Documents Termination Deadline**, based on any unsatisfactory provision in any of the Association Documents, in Buyer's sole subjective discretion. Should Buyer receive the Association Documents after **Association Documents Deadline**, Buyer, at Buyer's option, has the Right to Terminate under § 24.1. by Buyer's Notice to Terminate received by Seller on or before ten days after Buyer's receipt of the Association Documents. If Buyer does not receive the Association Documents, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Association Documents as satisfactory and Buyer waives any Right to Terminate under this provision, notwithstanding the provisions of § 8.6. (Third Party Right to Purchase/Approve).

## **8. TITLE INSURANCE, RECORD TITLE AND OFF-RECORD TITLE.**

### **8.1. Evidence of Record Title.**

☐ **8.1.1. Seller Selects Title Insurance Company.** If this box is checked, Seller will select the title insurance company to furnish the owner's title insurance policy at Seller's expense. On or before **Record Title Deadline**, Seller must furnish to Buyer, a current commitment for an owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price, or if this box is checked, ☐ an **Abstract of Title** certified to a current date. Seller will cause the title insurance policy to be issued and delivered to Buyer as soon as practicable at or after Closing.

☒ **8.1.2. Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the title insurance company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record Title Deadline**, Buyer must furnish to Seller, a current commitment for owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price.

If neither box in § 8.1.1. or § 8.1.2. is checked, § 8.1.1. applies.

**8.1.3. Owner's Extended Coverage (OEC).** The Title Commitment ☐ **Will** ☒ **Will Not** contain Owner's Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete or insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (period between the effective date and time of commitment to the date and time the deed is recorded) and (6) unpaid taxes, assessments and unredeemed

tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid by

☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☐ Other n/a.

Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or delete or insure over any or all of the standard exceptions for OEC. The Title Insurance Company may require a New Survey or New ILC, defined below, among other requirements for OEC. If the Title Insurance Commitment is not satisfactory to Buyer, Buyer has a right to object under § 8.7. (Right to Object to Title, Resolution).

**8.1.4. Title Documents.** Title Documents consist of the following: (1) copies of any plats, declarations, covenants, conditions and restrictions burdening the Property and (2) copies of any other documents (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions) in the Title Commitment furnished to Buyer (collectively, Title Documents).

**8.1.5. Copies of Title Documents.** Buyer must receive, on or before **Record Title Deadline**, copies of all Title Documents. This requirement pertains only to documents as shown of record in the office of the clerk and recorder in the county where the Property is located. The cost of furnishing copies of the documents required in this Section will be at the expense of the party or parties obligated to pay for the owner's title insurance policy.

**8.1.6. Existing Abstracts of Title.** Seller must deliver to Buyer copies of any abstracts of title covering all or any portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title Deadline**.

**8.2. Record Title.** Buyer has the right to review and object to the Abstract of Title or Title Commitment and any of the Title Documents as set forth in § 8.7. (Right to Object to Title, Resolution) on or before **Record Title Objection Deadline**. Buyer's objection may be based on any unsatisfactory form or content of Title Commitment or Abstract of Title, notwithstanding § 13, or any other unsatisfactory title condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title Documents are not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title Commitment will be delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such documents by Buyer to review and object to: (1) any required Title Document not timely received by Buyer, (2) any change to the Abstract of Title, Title Commitment or Title Documents, or (3) any endorsement to the Title Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.2. (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.7. (Right to Object to Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required by § 8.1. (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the Abstract of Title, Title Commitment and Title Documents as satisfactory.

**8.3. Off-Record Title.** Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true copies of all existing surveys in Seller's possession pertaining to the Property and must disclose to Buyer all easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or other title matters not shown by public records, of which Seller has actual knowledge (Off-Record Matters). This Section excludes any **New ILC** or **New Survey** governed under § 9 (New ILC, New Survey). Buyer has the right to inspect the Property to investigate if any third party has any right in the Property not shown by public records (e.g., unrecorded easement, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2. (Record Title) and § 13 (Transfer of Title), in Buyer's sole subjective discretion, must be received by Seller on or before **Off-Record Title Objection Deadline**. If an Off-Record Matter is received by Buyer after the **Off-Record Title Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to such Off-Record Matter. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection pursuant to this § 8.3. (Off-Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.7. (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts title subject to such Off-Record Matters and rights, if any, of third parties not shown by public records of which Buyer has actual knowledge.

**8.4. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS**

**MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.**

**8.5. Tax Certificate.** A tax certificate paid for by ☐ Seller ☒ Buyer, for the Property listing any special taxing districts that affect the Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline**. If the Property is located within a special taxing district and such inclusion is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may terminate, on or before **Record Title Objection Deadline**. Should Buyer receive the Tax Certificate after **Record Title Deadline**, Buyer, at Buyer's option, has the Right to Terminate under § 24.1. by Buyer's Notice to Terminate received by Seller on or before ten days after Buyer's receipt of the Tax Certificate. If Buyer does not receive the Tax Certificate, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Tax Certificate and the inclusion of the Property in a special taxing district, if applicable, as satisfactory and Buyer waives any Right to Terminate under this provision. If Buyer's loan specified in §4.5.3. (Loan Limitations) prohibits Buyer from paying for the Tax Certificate, the Tax Certificate will be paid for by Seller.

**8.6. Third Party Right to Purchase/Approve.** If any third party has a right to purchase the Property (e.g., right of first refusal on the Property, right to purchase the Property under a lease or an option held by a third party to purchase the Property) or a right of a third party to approve this Contract, Seller must promptly submit this Contract according to the terms and conditions of such right. If the third-party holder of such right exercises its right this Contract will terminate. If the third party's right to purchase is waived explicitly or expires, or the Contract is approved, this Contract will remain in full force and effect. Seller must promptly notify Buyer in writing of the foregoing. If the third party right to purchase is exercised or approval of this Contract has not occurred on or before **Third Party Right to Purchase/Approve Deadline**, this Contract will then terminate. Seller will supply to Buyer, in writing, details of any Third Party Right to Purchase the Property on or before the Record Title Deadline.

**8.7. Right to Object to Title, Resolution.** Buyer has a right to object or terminate, in Buyer's sole subjective discretion, based on any title matters including those matters set forth in § 8.2. (Record Title), § 8.3. (Off-Record Title), § 8.5. (Special Taxing District) and § 13 (Transfer of Title). If Buyer exercises Buyer's rights to object or terminate based on any such title matter, on or before the applicable deadline, Buyer has the following options:

**8.7.1. Title Objection, Resolution.** If Seller receives Buyer's written notice objecting to any title matter (Notice of Title Objection) on or before the applicable deadline and if Buyer and Seller have not agreed to a written settlement thereof on or before **Title Resolution Deadline**, this Contract will terminate on the expiration of **Title Resolution Deadline**, unless Seller receives Buyer's written withdrawal of Buyer's Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and waives the Right to Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title Deadline or the Off-Record Title Deadline, or both, are extended pursuant to § 8.2. (Record Title) or § 8.3. (Off-Record Title) the Title Resolution Deadline also will be automatically extended to the earlier of Closing or fifteen days after Buyer's receipt of the applicable documents; or

**8.7.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under § 24.1., on or before the applicable deadline, based on any title matter unsatisfactory to Buyer, in Buyer's sole subjective discretion.

**8.8. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use of the Property, including, without limitation, boundary lines and encroachments, set-back requirements, area, zoning, building code violations, unrecorded easements and claims of easements, leases and other unrecorded agreements, water on or under the Property and various laws and governmental regulations concerning land use, development and environmental matters.

**8.8.1. OIL, GAS, WATER AND MINERAL DISCLOSURE. THE SURFACE ESTATE OF THE PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE AND**

TRANSFER OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE MINERAL ESTATE OR WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OTHER MINERALS, GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE PROPERTY, WHICH INTERESTS MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF THE PROPERTY TO ACCESS THE MINERAL ESTATE, OIL, GAS OR WATER.

**8.8.2. SURFACE USE AGREEMENT.** THE USE OF THE SURFACE ESTATE OF THE PROPERTY TO ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND RECORDER.

**8.8.3. OIL AND GAS ACTIVITY.** OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING WELLS, REWORKING OF CURRENT WELLS AND GAS GATHERING AND PROCESSING FACILITIES.

**8.8.4. ADDITIONAL INFORMATION.** BUYER IS ENCOURAGED TO SEEK ADDITIONAL INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY, INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL AND GAS CONSERVATION COMMISSION.

**8.8.5. Title Insurance Exclusions.** Matters set forth in this Section and others, may be excepted, excluded from, or not covered by the owner's title insurance policy.

**8.9. Mineral Rights Review.** Buyer ☐ Does ☒ Does Not have a Right to Terminate if examination of the Mineral Rights is unsatisfactory to Buyer on or before the **Mineral Rights Examination Deadline**.

## **9. NEW ILC, NEW SURVEY.**

**9.1. New ILC or New Survey.** If the box is checked, (1) ☐ **New Improvement Location Certificate (New ILC)**; or, (2) ☐ **New Survey** in the form of n/a; is required and the following will apply:

**9.1.1. Ordering of New ILC or New Survey.** ☐ Seller ☒ Buyer will order the New ILC or New Survey. The New ILC or New Survey may also be a previous ILC or survey that is in the above-required form, certified and updated as of a date after the date of this Contract.

**9.1.2. Payment for New ILC or New Survey.** The cost of the New ILC or New Survey will be paid, on or before Closing, by: ☐ Seller ☒ Buyer or: n/a

**9.1.3. Delivery of New ILC or New Survey.** Buyer, Seller, the issuer of the Title Commitment (or the provider of the opinion of title if an Abstract of Title) and n/a will receive a New ILC or New Survey on or before **New ILC or New Survey Deadline**.

**9.1.4. Certification of New ILC or New Survey.** The New ILC or New Survey will be certified by the surveyor to all those who are to receive the New ILC or New Survey.

**9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection.** Buyer may select a New ILC or New Survey different than initially specified in this Contract if there is no additional cost to Seller or change to the **New ILC or New Survey Objection Deadline**. Buyer may, in Buyer's sole subjective discretion, waive a New ILC or New Survey if done prior to Seller incurring any cost for the same.

**9.3. New ILC or New Survey Objection.** Buyer has the right to review and object based on the New ILC or New Survey. If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may, on or before **New ILC or New Survey Objection Deadline**, notwithstanding § 8.3. or § 13:

**9.3.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated; or

**9.3.2. New ILC or New Survey Objection.** Deliver to Seller a written description of any matter that was to be shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires Seller to correct.

**9.3.3. New ILC or New Survey Resolution.** If a **New ILC or New Survey Objection** is received by Seller, on or before **New ILC or New Survey Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **New ILC or New Survey Resolution Deadline**, this Contract will terminate on expiration of the **New ILC or New Survey Resolution Deadline**, unless Seller receives



Buyer's written withdrawal of the New ILC or New Survey Objection before such termination (i.e., on or before expiration of **New ILC or New Survey Resolution Deadline**).

## DISCLOSURE, INSPECTION AND DUE DILIGENCE

### 10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE AND SOURCE OF WATER.

**10.1. Seller's Property Disclosure.** On or before **Seller's Property Disclosure Deadline**, Seller agrees to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's Seller's Property Disclosure form completed by Seller to Seller's actual knowledge and current as of the date of this Contract.

**10.2. Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition.** Seller must disclose to Buyer any adverse material facts actually known by Seller as of the date of this Contract. Seller agrees that disclosure of adverse material facts will be in writing. In the event Seller discovers an adverse material fact after the date of this Contract, Seller must timely disclose such adverse fact to Buyer. Buyer has the Right to Terminate based on the Seller's new disclosure on the earlier of Closing or five days after Buyer's receipt of the new disclosure. Except as otherwise provided in this Contract, Buyer acknowledges that Seller is conveying the Property to Buyer in an "**As Is**" condition, "**Where Is**" and "**With All Faults.**"

**10.3. Inspection.** Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right to have inspections (by one or more third parties, personally or both) of the Property, Leased Items, and Inclusions (Inspection), at Buyer's expense. If (1) the physical condition of the Property, including, but not limited to, the roof, walls, structural integrity of the Property, the electrical, plumbing, HVAC and other mechanical systems of the Property, (2) the physical condition of the Inclusions and Leased Items, (3) service to the Property (including utilities and communication services), systems and components of the Property (e.g., heating and plumbing), (4) any proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or noise (whether on or off the Property) and its effect or expected effect on the Property or its occupants is unsatisfactory, in Buyer's sole subjective discretion, Buyer may:

**10.3.1. Inspection Termination.** On or before the **Inspection Termination Deadline**, notify Seller in writing, pursuant to § 24.1., that this Contract is terminated due to any unsatisfactory condition, provided the Buyer did not previously deliver an Inspection Objection. Buyer's Right to Terminate under this provision expires upon delivery of an Inspection Objection to Seller pursuant to § 10.3.2.; or

**10.3.2. Inspection Objection.** On or before the **Inspection Objection Deadline**, deliver to Seller a written description of any unsatisfactory condition that Buyer requires Seller to correct.

**10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before **Inspection Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Inspection Resolution Deadline**, this Contract will terminate on **Inspection Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination (i.e., on or before expiration of **Inspection Resolution Deadline**). Nothing in this provision prohibits the Buyer and the Seller from mutually terminating this Contract before the Inspection Resolution Deadline passes by executing an Earnest Money Release.

**10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other written agreement between the parties, is responsible for payment for all inspections, tests, surveys, engineering reports, or other reports performed at Buyer's request (Work) and must pay for any damage that occurs to the Property and Inclusions as a result of such Work. Buyer must not permit claims or liens of any kind against the Property for Work performed on the Property. Buyer agrees to indemnify, protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to defend against any such liability, damage, cost or expense, or to enforce this Section, including Seller's reasonable attorney fees, legal fees and expenses. The provisions of this Section survive the termination of this Contract. This § 10.4. does not apply to items performed pursuant to an Inspection Resolution.

**10.5. Insurability.** Buyer has the Right to Terminate under § 24.1., on or before **Property Insurance Termination Deadline**, based on any unsatisfactory provision of the availability, terms and conditions and



premium for property insurance (Property Insurance) on the Property, in Buyer's sole subjective discretion.

#### **10.6. Due Diligence.**

**10.6.1. Due Diligence Documents.** Seller agrees to deliver copies of the following documents and information pertaining to the Property and Leased Items (Due Diligence Documents) to Buyer on or before **Due Diligence Documents Delivery Deadline**:

**10.6.1.1. Occupancy Agreements.** All current leases, including any amendments or other occupancy agreements, pertaining to the Property. Those leases or other occupancy agreements pertaining to the Property that survive Closing are as follows (Leases):

[n/a](#)

**10.6.1.2. Leased Items Documents.** If any lease of personal property (§ 2.5.4., Leased Items) will be transferred to Buyer at Closing, Seller agrees to deliver copies of the leases and information pertaining to the personal property to Buyer on or before **Due Diligence Documents Delivery Deadline**. Buyer ☐ **Will** ☐ **Will Not** assume the Seller's obligations under such leases for the Leased Items (§ 2.5.4., Leased Items).

**10.6.1.3. Encumbered Inclusions Documents.** If any Inclusions owned by Seller are encumbered pursuant to § 2.5.2. (Encumbered Inclusions) above, Seller agrees to deliver copies of the evidence of debt, security and any other documents creating the encumbrance to Buyer on or before **Due Diligence Documents Delivery Deadline**. Buyer ☐ **Will** ☐ **Will Not** assume the debt on the Encumbered Inclusions (§ 2.5.2., Encumbered Inclusions).

**10.6.1.4. Other Documents.** If the respective box is checked, Seller agrees to additionally deliver copies of the following:

☐ **10.6.1.4.1.** All contracts relating to the operation, maintenance and management of the Property;

☐ **10.6.1.4.2.** Property tax bills for the last [n/a](#) years;

☐ **10.6.1.4.3.** As-built construction plans to the Property and the tenant improvements, including architectural, electrical, mechanical and structural systems; engineering reports; and permanent Certificates of Occupancy, to the extent now available;

☐ **10.6.1.4.4.** A list of all Inclusions to be conveyed to Buyer;

☐ **10.6.1.4.5.** Operating statements for the past [n/a](#) years;

☐ **10.6.1.4.6.** A rent roll accurate and correct to the date of this Contract;

☐ **10.6.1.4.7.** A schedule of any tenant improvement work Seller is obligated to complete but has not yet completed and capital improvement work either scheduled or in process on the date of this Contract;

☐ **10.6.1.4.8.** All insurance policies pertaining to the Property and copies of any claims which have been made for the past [n/a](#) years;

☒ **10.6.1.4.9.** Soils reports, surveys and engineering reports or data pertaining to the Property (if not delivered earlier under § 8.3.);

☒ **10.6.1.4.10.** Any and all existing documentation and reports regarding Phase I and II environmental reports, letters, test results, advisories and similar documents respective to the existence or nonexistence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances and/or underground storage tanks and/or radon gas. If no reports are in Seller's possession or known to Seller, Seller warrants that no such reports are in Seller's possession or known to Seller;

☐ **10.6.1.4.11.** Any *Americans with Disabilities Act* reports, studies or surveys concerning the compliance of the Property with said Act;

☐ **10.6.1.4.12.** All permits, licenses and other building or use authorizations issued by any governmental authority with jurisdiction over the Property and written notice of any violation of any such permits, licenses or use authorizations, if any; and

☒ **10.6.1.4.13.** Other:

[Any knowledge and/or documents in Seller's possession related to the Subject Property being Lot 8 Trinity Sub.](#)

**10.6.2. Due Diligence Documents Review and Objection.** Buyer has the right to review and object based on the Due Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or

are unsatisfactory, in Buyer's sole subjective discretion, Buyer may, on or before **Due Diligence Documents Objection Deadline**:

**10.6.2.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated; or

**10.6.2.2. Due Diligence Documents Objection.** Deliver to Seller a written description of any unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.

**10.6.2.3. Due Diligence Documents Resolution.** If a Due Diligence Documents Objection is received by Seller, on or before **Due Diligence Documents Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Due Diligence Documents Resolution Deadline**, this Contract will terminate on **Due Diligence Documents Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Due Diligence Documents Objection before such termination (i.e., on or before expiration of **Due Diligence Documents Resolution Deadline**).

**10.6.3. Zoning.** Buyer has the Right to Terminate under § 24.1., on or before **Due Diligence Documents Objection Deadline**, based on any unsatisfactory zoning and any use restrictions imposed by any governmental agency with jurisdiction over the Property, in Buyer's sole subjective discretion.

**10.6.4. Due Diligence – Environmental, ADA.** Buyer has the right to obtain environmental inspections of the Property including Phase I and Phase II Environmental Site Assessments, as applicable. ☐ Seller ☒ Buyer will order or provide **Phase I Environmental Site Assessment, Phase II Environmental Site Assessment** (compliant with most current version of the applicable ASTM E1527 standard practices for Environmental Site Assessments) and/or n/a, at the expense of ☐ Seller ☒ Buyer (Environmental Inspection). In addition, Buyer, at Buyer's expense, may also conduct an evaluation whether the Property complies with the *Americans with Disabilities Act* (ADA Evaluation). All such inspections and evaluations must be conducted at such times as are mutually agreeable to minimize the interruption of Seller's and any Seller's tenants' business uses of the Property, if any.

If Buyer's Phase I Environmental Site Assessment recommends a Phase II Environmental Site Assessment, the **Environmental Inspection Termination Deadline** will be extended by 60 days (Extended Environmental Inspection Objection Deadline) and if such Extended Environmental Inspection Objection Deadline extends beyond the **Closing Date**, the **Closing Date** will be extended a like period of time. In such event, ☐ Seller ☒ Buyer must pay the cost for such Phase II Environmental Site Assessment.

Notwithstanding Buyer's right to obtain additional environmental inspections of the Property in this § 10.6.4., Buyer has the Right to Terminate under § 24.1., on or before **Environmental Inspection Termination Deadline**, or if applicable, the Extended Environmental Inspection Objection Deadline, based on any unsatisfactory results of Environmental Inspection, in Buyer's sole subjective discretion.

Buyer has the Right to Terminate under § 24.1., on or before **ADA Evaluation Termination Deadline**, based on any unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.

**10.7. Conditional Upon Sale of Property.** This Contract is conditional upon the sale and closing of that certain property owned by Buyer and commonly known as n/a. Buyer has the Right to Terminate under § 24.1. effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if such property is not sold and closed by such deadline. This Section is for the sole benefit of Buyer. If Seller does not receive Buyer's Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any Right to Terminate under this provision.

**10.8. Source of Potable Water (Residential Land and Residential Improvements Only).** Buyer ☐ Does ☒ Does Not acknowledge receipt of a copy of Seller's Property Disclosure or Source of Water Addendum disclosing the source of potable water for the Property. ☒ There is **No Well**. Buyer ☐ Does ☐ Does Not acknowledge receipt of a copy of the current well permit.

**Note to Buyer: SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE GROUND WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER (OR INVESTIGATE THE DESCRIBED SOURCE) TO DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.**

**10.9. Existing Leases; Modification of Existing Leases; New Leases.** Seller states that none of the Leases to be assigned to the Buyer at the time of Closing contain any rent concessions, rent reductions or rent abatements except as disclosed in the Lease or other writing received by Buyer. Seller will not amend, alter, modify, extend or cancel any of the Leases nor will Seller enter into any new leases affecting the Property without the prior written consent of Buyer, which consent will not be unreasonably withheld or delayed.

- 10.10. **Lead-Based Paint.** [Intentionally Deleted - See Residential Addendum if applicable]  
10.11. **Carbon Monoxide Alarms.** [Intentionally Deleted - See Residential Addendum if applicable]  
10.12. **Methamphetamine Disclosure.** [Intentionally Deleted - See Residential Addendum if applicable]

## 11. TENANT ESTOPPEL STATEMENTS.

11.1. **Estoppel Statements Conditions.** Buyer has the right to review and object to any Estoppel Statements. Seller must request from all tenants of the Property and if received by Seller, deliver to Buyer on or before **Estoppel Statements Deadline**, statements in a form and substance reasonably acceptable to Buyer, from each occupant or tenant at the Property (Estoppel Statement) attached to a copy of the Lease stating:

- 11.1.1. The commencement date of the Lease and scheduled termination date of the Lease;  
11.1.2. That said Lease is in full force and effect and that there have been no subsequent modifications or amendments;  
11.1.3. The amount of any advance rentals paid, rent concessions given and deposits paid to Seller;  
11.1.4. The amount of monthly (or other applicable period) rental paid to Seller;  
11.1.5. That there is no default under the terms of said Lease by landlord or occupant; and  
11.1.6. That the Lease to which the Estoppel Statement is attached is a true, correct and complete copy of the Lease demising the premises it describes.

11.2. **Seller Estoppel Statement.** In the event Seller does not receive from all tenants of the Property a completed signed Estoppel Statement, Seller agrees to complete and execute an Estoppel Statement setting forth the information and documents required §11.1. above and deliver the same to Buyer on or before **Estoppel Statements Deadline**.

11.3. **Estoppel Statements Termination.** Buyer has the Right to Terminate under § 24.1., on or before **Estoppel Statements Termination Deadline**, based on any unsatisfactory Estoppel Statement, in Buyer's sole subjective discretion, or if Seller fails to deliver the Estoppel Statements on or before **Estoppel Statements Deadline**. Buyer also has the unilateral right to waive any unsatisfactory Estoppel Statement.

## CLOSING PROVISIONS

## 12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.

12.1. **Closing Documents and Closing Information.** Seller and Buyer will cooperate with the Closing Company to enable the Closing Company to prepare and deliver documents required for Closing to Buyer and Seller and their designees. If Buyer is obtaining a loan to purchase the Property, Buyer acknowledges Buyer's lender is required to provide the Closing Company, in a timely manner, all required loan documents and financial information concerning Buyer's loan. Buyer and Seller will furnish any additional information and documents required by Closing Company that will be necessary to complete this transaction. Buyer and Seller will sign and complete all customary or reasonably required documents at or before Closing.

12.2. **Closing Instructions.** Colorado Real Estate Commission's Closing Instructions ☒ **Are**  
☐ **Are Not** executed with this Contract.

12.3. **Closing.** Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the date specified as the **Closing Date** or by mutual agreement at an earlier date. At Closing, Seller agrees to deliver a set of keys for the Property to Buyer. The hour and place of Closing will be as designated by n/a.

12.4. **Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality and extent of service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title companies).

12.5. **Assignment of Leases.** Seller must assign to Buyer all Leases at Closing that will continue after Closing and Buyer must assume Seller's obligations under such Leases. Further, Seller must transfer to Buyer all Leased Items and assign to Buyer such leases for the Leased Items accepted by Buyer pursuant to § 2.5.4. (Leased Items).

**13. TRANSFER OF TITLE.** Subject to Buyer's compliance with the terms and provisions of this Contract, including the tender of any payment due at Closing, Seller must execute and deliver the following good and sufficient deed to Buyer, at Closing: ☐ special warranty deed ☒ general warranty deed ☐ bargain and sale deed ☐ quit claim deed ☐ personal representative's deed ☐ n/a deed. Seller, provided another deed is not selected, must execute and deliver a good and sufficient special warranty deed to Buyer, at Closing.

Unless otherwise specified in § 29 (Additional Provisions), if title will be conveyed using a special warranty deed or a general warranty deed, title will be conveyed "subject to statutory exceptions" as defined in §38-30-113(5)(a), C.R.S.

**14. PAYMENT OF LIENS AND ENCUMBRANCES.** Unless agreed to by Buyer in writing, any amounts owed on any liens or encumbrances securing a monetary sum against the Property and Inclusions, including any governmental liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not, and previous years' taxes, will be paid at or before Closing by Seller from the proceeds of this transaction or from any other source.

**15. CLOSING COSTS, FEES, ASSOCIATION STATUS LETTER AND DISBURSEMENTS, TAXES AND WITHHOLDING.**

**15.1. Closing Costs.** Buyer and Seller must pay, in Good Funds, their respective closing costs and all other items required to be paid at Closing, except as otherwise provided herein.

**15.2. Closing Services Fee.** The fee for real estate closing services must be paid at Closing by ☒ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☐ Other n/a.

**15.3. Association Fees and Required Disbursements.** At least fourteen days prior to **Closing Date**, Seller agrees to promptly request that the Closing Company or the Association deliver to Buyer a current Status Letter, if applicable. Any fees associated with or specified in the Status Letter will be paid as follows:

**15.3.1. Status Letter Fee.** Any fee incident to the issuance of Association's Status Letter must be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

**15.3.2. Record Change Fee.** Any Record Change Fee must be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

**15.3.3. Assessments, Reserves or Working Capital.** All assessments required to be paid in advance (other than Association Assessments as defined in § 16.2. (Association Assessments), reserves or working capital due at Closing must be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

**15.3.4. Other Fees.** Any other fee listed in the Status Letter as required to be paid at Closing will be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☐ N/A.

**15.4. Local Transfer Tax.** Any Local Transfer Tax must be paid at Closing by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

**15.5. Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction must be paid when due by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

**15.6. Private Transfer Fee.** Any private transfer fees and other fees due to a transfer of the Property, payable at Closing, such as community association fees, developer fees and foundation fees, must be paid at Closing by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

**15.7. Water Transfer Fees.** Water Transfer Fees can change. The fees, as of the date of this Contract, do not exceed \$n/a for:

☐ Water Stock/Certificates ☐ Water District

☐ Augmentation Membership ☐ Small Domestic Water Company ☐ n/a

and must be paid at Closing by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☐ N/A.

**15.8. Utility Transfer Fees.** Utility transfer fees can change. Any fees to transfer utilities from Seller to Buyer must be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

**15.9. FIRPTA and Colorado Withholding.**

**15.9.1. FIRPTA.** The Internal Revenue Service (IRS) may require a substantial portion of the Seller's proceeds be withheld after Closing when Seller is a foreign person. If required withholding does not occur, the Buyer could be held liable for the amount of the Seller's tax, interest and penalties. If the box in this Section is checked, Seller represents that Seller ☐ **IS** a foreign person for purposes of U.S. income taxation.

If the box in this Section is not checked, Seller represents that Seller is not a foreign person for purposes of U.S. income taxation. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's foreign person status. If withholding is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or if an exemption exists.

**15.9.2. Colorado Withholding.** The Colorado Department of Revenue may require a portion of the Seller's proceeds be withheld after Closing when Seller will not be a Colorado resident after Closing, if not otherwise exempt. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's status. If withholding is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or if an exemption exists.

## **16. PRORATIONS AND ASSOCIATION ASSESSMENTS.**

**16.1. Prorations.** The following will be prorated to the **Closing Date**, except as otherwise provided:

**16.1.1. Taxes.** Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the year of Closing, based on

☒ **Taxes for the Calendar Year Immediately Preceding Closing**

☐ **Most Recent Mill Levy and Most Recent Assessed Valuation,** ☐ **Other**

n/a

**16.1.2. Rents.** Rents based on ☐ **Rents Actually Received** ☐ **Accrued.** At Closing, Seller will transfer or credit to Buyer the security deposits for all Leases assigned to Buyer, or any remainder after lawful deductions, and notify all tenants in writing of such transfer and of the transferee's name and address.

**16.1.3. Other Prorations.** Water and sewer charges, propane, interest on continuing loan and

n/a

**16.1.4. Final Settlement.** Unless otherwise specified in Additional Provisions, these prorations are final.

**16.2. Association Assessments.** Current regular Association assessments and dues (Association Assessments) paid in advance will be credited to Seller at Closing. Cash reserves held out of the regular Association Assessments for deferred maintenance by the Association will not be credited to Seller except as may be otherwise provided by the Governing Documents. Buyer acknowledges that Buyer may be obligated to pay the Association, at Closing, an amount for reserves or working capital. Any special assessment assessed prior to **Closing Date** by the Association will be the obligation of ☐ **Buyer** ☐ **Seller.** Except however, any special assessment by the Association for improvements that have been installed as of the date of Buyer's signature hereon, whether assessed prior to or after Closing, will be the obligation of Seller unless otherwise specified in Additional Provisions. Seller represents there are no unpaid regular or special assessments against the Property except the current regular assessments and

n/a

Association Assessments are subject to change as provided in the Governing Documents.

**17. POSSESSION.** Possession of the Property and Inclusions will be delivered to Buyer on **Possession Date** at **Possession Time**, subject to the Leases as set forth in § 10.6.1.1.

If Seller, after Closing occurs, fails to deliver possession as specified, Seller will be subject to eviction and will be additionally liable to Buyer, notwithstanding § 20.2. (If Seller is in Default), for payment of \$ n/a per day (or any part of a day notwithstanding § 3.3., Day) from **Possession Date** and **Possession Time** until possession is delivered.

## **General Provisions**

**18. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION; AND WALK-THROUGH.** Except as otherwise provided in this Contract, the Property, Inclusions or both will be delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.

**18.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other perils or causes of loss prior to Closing (Property Damage) in an amount of not more than ten percent of the total Purchase Price and if the repair of the damage will be paid by insurance (other than the deductible to be



paid by Seller), then Seller, upon receipt of the insurance proceeds, will use Seller's reasonable efforts to repair the Property before **Closing Date**. Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, if the Property is not repaired before **Closing Date**, or if the damage exceeds such sum. Should Buyer elect to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all insurance proceeds that were received by Seller (but not the Association, if any) resulting from damage to the Property and Inclusions, plus the amount of any deductible provided for in the insurance policy. This credit may not exceed the Purchase Price. In the event Seller has not received the insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** to have the Property repaired prior to Closing or, at the option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller's insurance company and Buyer's lender; or (2) the parties may enter into a written agreement prepared by the parties or their attorney requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller has received and will receive due to such damage, not exceeding the total Purchase Price, plus the amount of any deductible that applies to the insurance claim.

**18.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and communication services), system, component or fixture of the Property (collectively Service) (e.g., heating or plumbing), fail or be damaged between the date of this Contract and Closing or possession, whichever is earlier, then Seller is liable for the repair or replacement of such Inclusion or Service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or replaced on or before Closing or possession, whichever is earlier, Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, or, at the option of Buyer, Buyer is entitled to a credit at Closing for the repair or replacement of such Inclusion or Service. Such credit must not exceed the Purchase Price. If Buyer receives such a credit, Seller's right for any claim against the Association, if any, will survive Closing.

**18.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending condemnation action may result in a taking of all or part of the Property or Inclusions, Seller must promptly notify Buyer, in writing, of such condemnation action. Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, based on such condemnation action, in Buyer's sole subjective discretion. Should Buyer elect to consummate this Contract despite such diminution of value to the Property and Inclusions, Buyer is entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value of the Property or Inclusions, but such credit will not include relocation benefits or expenses or exceed the Purchase Price.

**18.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, has the right to walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this Contract.

**18.5. Home Warranty. [Intentionally Deleted]**

**18.6. Risk of Loss – Growing Crops.** The risk of loss for damage to growing crops by fire or other casualty will be borne by the party entitled to the growing crops as provided in § 2.8. and such party is entitled to such insurance proceeds or benefits for the growing crops.

**19. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this Contract, Buyer and Seller acknowledge that their respective broker has advised that this Contract has important legal consequences and has recommended: (1) legal examination of title; (2) consultation with legal and tax or other counsel before signing this Contract as this Contract may have important legal and tax implications; (3) to consult with their own attorney if Water Rights, Mineral Rights or Leased Items are included or excluded in the sale; and (4) to consult with legal counsel if there are other matters in this transaction for which legal counsel should be engaged and consulted. Such consultations must be done timely as this Contract has strict time limits, including deadlines, that must be complied with.

**20. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence for all dates and deadlines in this Contract. This means that all dates and deadlines are strict and absolute. If any payment due, including Earnest Money, is not paid, honored or tendered when due, or if any obligation is not performed timely as provided in this Contract or waived, the non-defaulting party has the following remedies:

**20.1. If Buyer is in Default:**

☐ **20.1.1. Specific Performance.** Seller may elect to cancel this Contract and all Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money is not a penalty, and the parties agree the amount is fair and reasonable. Seller may recover such additional damages as may be proper. Alternatively, Seller may elect to treat this Contract as being in full force and effect and Seller has the right to specific performance or damages, or both.

**20.1.2. Liquidated Damages, Applicable. This § 20.1.2. applies unless the box in § 20.1.1. is checked.** Seller may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money amount specified in § 4.1. is LIQUIDATED DAMAGES and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4. and 21), such amount is SELLER'S ONLY REMEDY for Buyer's failure to perform the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional damages.

**20.2. If Seller is in Default:**

**20.2.1. Specific Performance, Damages or Both.** Buyer may elect to treat this Contract as canceled, in which case all Earnest Money received hereunder will be returned to Buyer and Buyer may recover such damages as may be proper. Alternatively, in addition to the per diem in § 17 (Possession) for failure of Seller to timely deliver possession of the Property after Closing occurs, Buyer may elect to treat this Contract as being in full force and effect and Buyer has the right to specific performance or damages, or both.

**20.2.2. Seller's Failure to Perform.** In the event Seller fails to perform Seller's obligations under this Contract, to include, but not limited to, failure to timely disclose Association violations known by Seller, failure to perform any replacements or repairs required under this Contract or failure to timely disclose any known adverse material facts, Seller remains liable for any such failures to perform under this Contract after Closing. Buyer's rights to pursue the Seller for Seller's failure to perform under this Contract are reserved and survive Closing.

**21. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event of any arbitration or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court must award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and expenses.

**22. MEDIATION.** If a dispute arises relating to this Contract (whether prior to or after Closing) and is not resolved, the parties must first proceed, in good faith, to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. Before any mediated settlement is binding, the parties to the dispute must agree to the settlement, in writing. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire dispute is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the other at that party's last known address (physical or electronic as provided in § 26). Nothing in this Section prohibits either party from filing a lawsuit and recording a *lis pendens* affecting the Property, before or after the date of written notice requesting mediation. This Section will not alter any date in this Contract, unless otherwise agreed.

**23. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder must release the Earnest Money following receipt of written mutual instructions, signed by both Buyer and Seller. In the event of any controversy regarding the Earnest Money, Earnest Money Holder is not required to release the Earnest Money. Earnest Money Holder, in its sole subjective discretion, has several options: (1) wait for any proceeding between Buyer and Seller; (2) interplead all parties and deposit Earnest Money into a court of competent jurisdiction (Earnest Money Holder is entitled to recover court costs and reasonable attorney and legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless Earnest Money Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the case number of the lawsuit (Lawsuit) within one hundred twenty days of Earnest Money Holder's notice to the parties, Earnest Money Holder is authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit and has not interpleaded the monies at the time of any Order, Earnest Money Holder must disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the obligation of § 22 (Mediation). This Section will survive cancellation or termination of this Contract.

## **24. TERMINATION.**

**24.1. Right to Terminate.** If a party has a right to terminate, as provided in this Contract (Right to Terminate), the termination is effective upon the other party's receipt of a written notice to terminate (Notice to Terminate), provided such written notice was received on or before the applicable deadline specified in this Contract. If the Notice to Terminate is not received on or before the specified deadline, the party with the Right to Terminate accepts the specified matter, document or condition as satisfactory and waives the Right to Terminate under such provision.

**24.2. Effect of Termination.** In the event this Contract is terminated, and all Earnest Money received hereunder is timely returned to Buyer, the parties are relieved of all obligations hereunder, subject to §§ 10.4. and 21.

**25. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL; SUCCESSORS.** This Contract, its exhibits and specified addenda, constitute the entire agreement between the parties relating to the subject hereof and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Contract. No subsequent modification of any of the terms of this Contract is valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any right or obligation in this Contract that, by its terms, exists or is intended to be performed after termination or Closing survives the same. Any successor to a party receives the predecessor's benefits and obligations of this Contract.

## **26. NOTICE, DELIVERY AND CHOICE OF LAW.**

**26.1. Physical Delivery and Notice.** Any document or notice to Buyer or Seller must be in writing, except as provided in § 26.2. and is effective when physically received by such party, any individual named in this Contract to receive documents or notices for such party, Broker, or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing must be received by the party, not Broker or Brokerage Firm).

**26.2. Electronic Notice.** As an alternative to physical delivery, any notice may be delivered in electronic form to Buyer or Seller, any individual named in this Contract to receive documents or notices for such party, Broker or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing, cancellation or Termination must be received by the party, not Broker or Brokerage Firm) at the electronic address of the recipient by facsimile, email or n/a.

**26.3. Electronic Delivery.** Electronic Delivery of documents and notice may be delivered by: (1) email at the email address of the recipient, (2) a link or access to a website or server provided the recipient receives the information necessary to access the documents, or (3) facsimile at the facsimile number (Fax No.) of the recipient.

**26.4. Choice of Law.** This Contract and all disputes arising hereunder are governed by and construed in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for real property located in Colorado.

**27. NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal will expire unless accepted in writing, by Buyer and Seller, as evidenced by their signatures below and the offering party receives notice of such acceptance pursuant to § 26 on or before **Acceptance Deadline Date** and **Acceptance Deadline Time**. If accepted, this document will become a contract between Seller and Buyer. A copy of this Contract may be executed by each party, separately and when each party has executed a copy thereof, such copies taken together are deemed to be a full and complete contract between the parties.

**28. GOOD FAITH.** Buyer and Seller acknowledge that each party has an obligation to act in good faith including, but not limited to, exercising the rights and obligations set forth in the provisions of **Financing Conditions and Obligations; Title Insurance, Record Title and Off-Record Title; New ILC, New Survey; and Property Disclosure, Inspection, Indemnity, Insurability Due Diligence and Source of Water.**

|                                              |
|----------------------------------------------|
| <b>ADDITIONAL PROVISIONS AND ATTACHMENTS</b> |
|----------------------------------------------|

**29. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate Commission.)



1. Buyer will facilitate and pay all costs related to engineering, survey, lot line rearrangement/subdivision necessary to complete transfer of said property.

2. Seller agrees to cooperate related to any necessary signatures and/or authorization to allow Buyer to complete Item #2 above.

3. This contract and all dates to be extended up to 60 days if necessary to complete conveyance. Parties do, however, agree to close at an earlier time if notified that the property is able to be conveyed.

**30. OTHER DOCUMENTS.**

**30.1. Documents Part of Contract.** The following documents are a part of this Contract:

1) Exhibit A

2) Representation Clause

**30.2. Documents Not Part of Contract.** The following documents have been provided but are not a part of this Contract:

n/a

**Signatures**

|                                                                                                                                                                                                                                   |                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| <div style="border: 1px solid black; height: 60px; width: 450px; margin-bottom: 10px;"></div> <div style="border-top: 1px solid black; padding-top: 10px;">Buyer: <b>City of Pueblo</b><br/><b>By: Nicholas A. Gradisar</b></div> |  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|

**[NOTE: If this offer is being countered or rejected, do not sign this document.]**

|                                                                                                                                                                                                     |                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| <div style="border: 1px solid black; height: 60px; width: 450px; margin-bottom: 10px;"></div> <div style="border-top: 1px solid black; padding-top: 10px;">Seller: <b>Global Proposal LLC</b></div> |  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|

**END OF CONTRACT TO BUY AND SELL REAL ESTATE**

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## BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

### A. Broker Working With Buyer

Broker ☐ Does ☒ Does Not acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 23, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Buyer as a ☒ Buyer's Agent ☐ Transaction-Broker in this transaction.

☐ Customer. Broker has no brokerage relationship with Buyer. See § B for Broker's brokerage relationship with Seller.

Brokerage Firm's compensation or commission is to be paid by ☐ Listing Brokerage Firm ☒ Buyer  
☐ Other .

This Broker's Acknowledgements and Compensation Disclosure is for disclosure purposes only and does NOT create any claim for compensation. Any compensation agreement between the brokerage firms must be entered into separately and apart from this provision.

Brokerage Firm's Name: *RE/MAX of Pueblo, Inc.*  
*The Greg Hahn Sales Team*

Brokerage Firm's License #: *EC 39360*



Date: *6/7/2023*

Broker's Name: *Greg Hahn*

Broker's License #: *ER00145541*

Address: *511 W. 29th St., Suite A Pueblo, CO 81008*

Ph: *719-546-1717* Fax: Email Address: *greghahn@remax.net; jsalimeno@remaxpueblo.com; steve.henson@remax.net; jenniferlagdag@remax.net*

---

### B. Broker Working with Seller

Broker ☐ Does ☐ Does Not ☐ (Clr) acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 23, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Seller as a ☐ Seller's Agent ☐ Transaction-Broker ☐ (Clr) in this transaction.

☒ Customer. Broker has no brokerage relationship with Seller. See § A for Broker's brokerage relationship

with Buyer.

Brokerage Firm's compensation or commission is to be paid by ☐ Seller ☐ Buyer ☐ Other

. ☐ (Clr)

This Broker's Acknowledgements and Compensation Disclosure is for disclosure purposes only and does NOT create any claim for compensation. Any compensation agreement between the brokerage firms must be entered into separately and apart from this provision.

Brokerage Firm's Name:

Brokerage Firm's License #:

Broker's Signature \_\_\_\_\_ Date: \_\_\_\_\_

Broker's License #:

Address: ,

Ph: Fax: Email Address:

---

#### **CBS4-6-21. CONTRACT TO BUY AND SELL REAL ESTATE (LAND)**

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**EXHIBIT "A"**  
**PORTION OF LOT 7 AND LOT 8, BLOCK 2 OF THE TRINITY SUBDIVISION**  
**LAND DESCRIPTION**

A parcel of land located in the northeast  $\frac{1}{4}$  of the northwest  $\frac{1}{4}$  of Section 33 Township 20 South, Range 64 West of the 6<sup>th</sup> Principal Meridian, in the County of Pueblo and State of Colorado, and being more particularly described as follows:

Considering the south line of Parcel "B" of the Rearrangement of Property Boundaries recorded in Book 2155 at Page 979 in the Pueblo County records to bear S89°57'10"E and all bearings contained herein being relative thereto. Both ends of said south line being monumented with a No. 4 rebar with a 2" aluminum cap stamped with PLS. No. 31925.

Beginning at the southeast corner of Parcel "A" in said Rearrangement of Property Boundaries, said point being on the north lot line of Lot 8, Block 3 in the Trinity Subdivision recorded June 12, 1981 in Book 2076 at Page 311 in the Pueblo County records; thence S89°57'10"E along said north line of Lot 8, a distance of 101.11 feet; thence S81°18'40"E, a distance of 65.14 feet; thence S48°46'22"E, a distance of 210.00 feet to the southeast corner of Lot 7, Block 3 of said Trinity Subdivision; thence S87°19'28"W along the south lot line of said Lot 7, a distance of 316.17 feet; thence N02°40'32"W, a distance of 163.26 feet to the Point of Beginning.

Said parcel of land containing 0.85 acres, more or less

I, Michael L. Cuppy, being a licensed Professional Land Surveyor in the State of Colorado, do hereby state that this land description and exhibit, being made a part hereof, were prepared under my responsible charge and are accurate to the best of my knowledge, information, and belief.

---

Michael L. Cuppy  
Colorado P.L.S. 38485  
For and on Behalf of  
NorthStar Engineering and Surveying, Inc.  
May 12, 2023

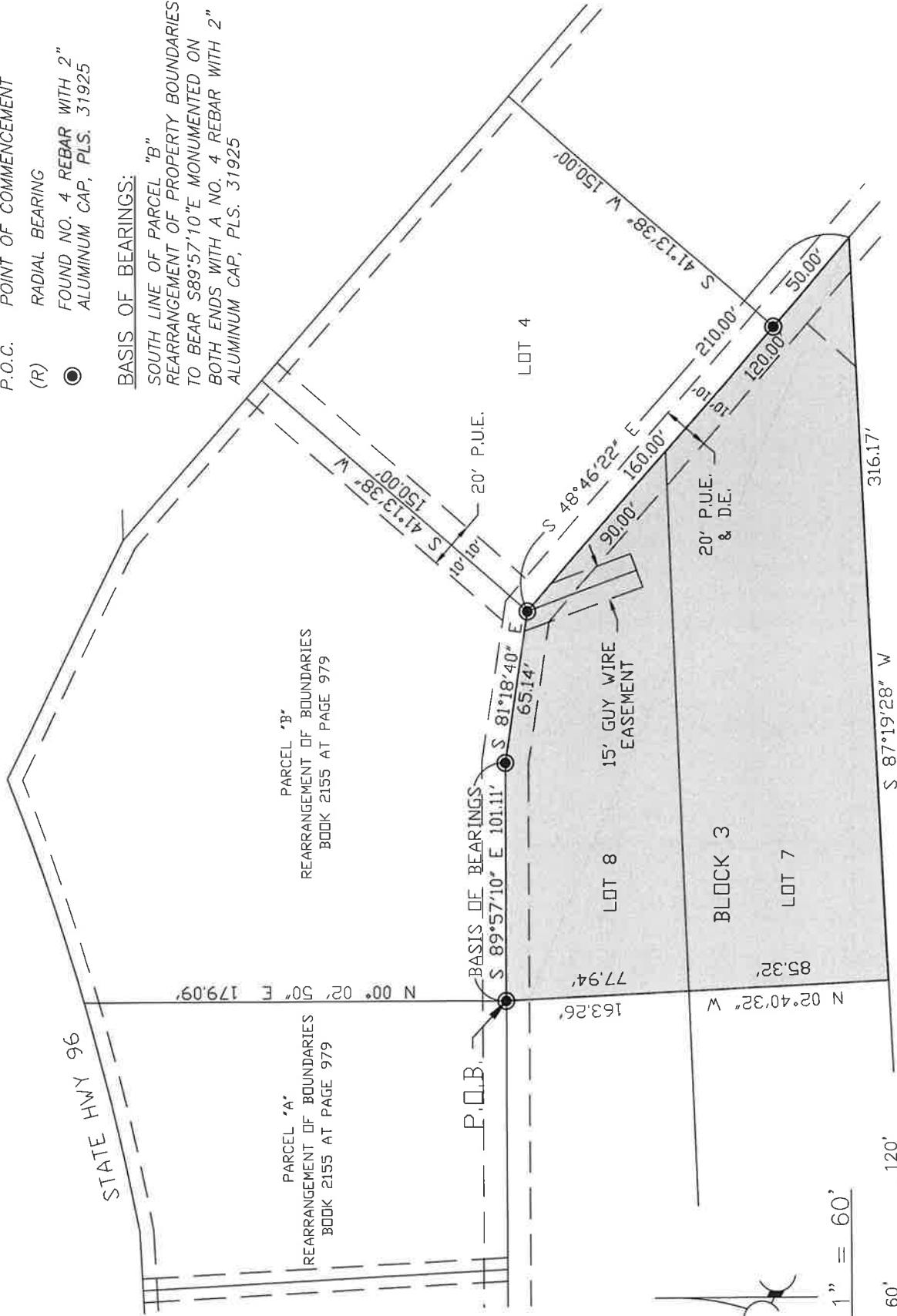
# EXHIBIT "A"

## LEGEND

- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- (R) RADIAL BEARING
- FOUND NO. 4 REBAR WITH 2" ALUMINUM CAP, PLS. 31925

## BASIS OF BEARINGS:

SOUTH LINE OF PARCEL "B"  
REARRANGEMENT OF PROPERTY BOUNDARIES  
TO BEAR S89°57'10"E MONUMENTED ON  
BOTH ENDS WITH A NO. 4 REBAR WITH 2"  
ALUMINUM CAP, PLS. 31925



SCALE: 1" = 60'



## NOTE:

THIS EXHIBIT WAS NOT PREPARED AS A  
MONUMENTED LAND SURVEY, AND WAS ONLY  
PREPARED TO DEPICT THE ATTACHED LAND  
DESCRIPTION.

JN 22 027 02

B Y: NORTHSTAR ENGINEERING AND SURVEYING, INC.

PREPARED



**RE/MAX**

Each Office Independently Owned & Operated

**RE/MAX of Pueblo, Inc.**

511 W. 29th St., Suite A

Pueblo, CO 81008

719-546-1717

This form is not approved by the Colorado Real Estate Commission and has important legal consequences. The parties should consult legal and tax or other counsel before signing.

**REPRESENTATION CLAUSE**

**(Vacant Land)**

**A portion of Lot 7 & 8, Block 2, The Trinity Sub being approximately .85 acres +/- (See Exhibit A)**

Legal Description: \_\_\_\_\_

In connection with the purchase of the above described property, the Buyer has been advised by RE/MAX of Pueblo, Inc., RE/MAX Pueblo West, Inc., or through its Agents to make such investigations as Buyer deems advisable to determine that the vacant land is in condition satisfactory to Buyer, including, but not limited to:

Soil tests, which may disclose:

Filled ground

Underground water

Bentonite

Shale deposits too heavy for the intended use

Other chemical or mineral substances of any kind which might prove harmful or impractical in the use of the land

Zoning restrictions and local government requirements

Surveys

Landscaping requirements

Availability and expense of utilities, including:

Water taps

Sewer taps or percolation tests for septic systems

Electricity, including San Isabel Electric Association's minimum electric service contract

Buyer may be responsible for the expense of bringing power and all utilities to the property

Natural gas or propane

Telephone

Cable television

Other matters of any kind affecting the ground or use of same

Buyer assumes full responsibility for approval of all Regional Building Department and Architectural Committee requirements when submitting building plans.

**Further, the Buyer has not relied upon, and does not rely upon, any statements of any kind relating to said land made by RE/MAX of Pueblo, Inc., RE/MAX Pueblo West, Inc., or its Agents, except those which are specifically set forth in the Buy/Sell Contract.**

Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_

Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_

*Approved by Larry T. Simons, Attorney at Law*

This Addendum has NOT been approved by the Colorado Real Estate Commission. It was prepared by legal counsel for use of RE/MAX of Pueblo, Inc. It is general in nature and may not be suitable for all transactions. Parties to this Agreement should consult their own attorneys with regard to any questions of interpretation.



**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 26, 2023

**TO:** President Heather Graham and Members of City Council

**CC:** Mayor Nicholas A. Gradisar

**VIA:** Marisa Stoller, City Clerk

**FROM:** Laura Solano, Chief of Staff

**SUBJECT:** AN ORDINANCE APPROVING AND ACCEPTING A SUBGRANT IN THE AMOUNT OF \$55,000 FROM ONE COLORADO EDUCATION FUND FOR THE PUEBLO FOOD PROJECT, AUTHORIZING THE MAYOR TO SIGN THE GRANT AGREEMENT, AND BUDGETING AND APPROPRIATING \$55,000 TO PROJECT NO. CI2213

**SUMMARY:**

Attached is an Ordinance approving and accepting a grant in the amount of \$55,000.00 from One Colorado Education Fund to provide funds to continue food systems work by the Pueblo Food Project through One Colorado's subgrantee program. This Ordinance budgets and appropriates the grant funds to Project No. CI2213 and authorizes the Mayor to sign the Grant Agreement.

**PREVIOUS COUNCIL ACTION:**

City Council approved a similar grant with One Colorado Education Fund in 2022.

**BACKGROUND:**

The Pueblo Food Project ("PFP") has been working in partnership with One Colorado Education Fund as it worked to improve food access, health, and nutrition for LGBTQ+ individuals in the community. One Colorado is a long-standing LGBTQ+ organization in Colorado and has been charged with assisting food initiatives in Pueblo County. Over the course of the last year, PFP and One Colorado have been working together to solve issues in Pueblo's food system. Over the last few weeks One Colorado approached PFP with a subgrantee offer to continue PFP's regular work in food systems and to work with One Colorado to increase outreach to the LGBTQ+ community.

**FINANCIAL IMPLICATIONS:**

There are no matching funds required for this grant. The City of Pueblo will receive

\$55,000.00 for the Pueblo Food Project on an invoice and reimbursement basis. The total grant budget for Project No. CI2213 will become \$55,000.00.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable to this Ordinance.

**STAKEHOLDER PROCESS:**

Not applicable to this Ordinance.

**ALTERNATIVES:**

If the proposed Ordinance is not approved, the Pueblo Food Project will not receive the grant funds.

**RECOMMENDATION:**

Approval of the Ordinance.

**ATTACHMENTS:**

1. 06-12-23 MOU Pueblo Food Project and One Colorado FY24 - City (1)



ORDINANCE NO.

AN ORDINANCE APPROVING AND ACCEPTING A SUBGRANT IN THE AMOUNT OF \$55,000 FROM ONE COLORADO EDUCATION FUND FOR THE PUEBLO FOOD PROJECT, AUTHORIZING THE MAYOR TO SIGN THE GRANT AGREEMENT, AND BUDGETING AND APPROPRIATING \$55,000 TO PROJECT NO. CI2213

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

SECTION 1.

The Memorandum of Understanding dated July 1, 2023 ("Agreement") between the City of Pueblo, a Municipal Corporation, by and through the Pueblo Food Project, and One Colorado Education Fund, 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 the Agreement on behalf of the City of Pueblo, a Colorado Municipal Corporation, and the City Clerk is authorized to affix the seal of the City thereto and attest the same.

SECTION 3.

Funds in the amount of \$55,000.00 shall be accepted pursuant to the Agreement and budgeted and appropriated to Project No. CI2213.

SECTION 4.

The officers and staff of the City are hereby authorized to perform any and all acts consistent with this Ordinance and the attached Agreement to implement the transactions described therein.

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 June 12, 2023.

Final adoption of Ordinance by City Council on June 26, 2023.

\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☐ Approved on \_\_\_\_\_.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

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\_\_\_\_\_  
Mayor

**Action by City Council After Disapproval by the Mayor:**

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of \_\_\_\_\_, on \_\_\_\_\_
- ☐ Council action on \_\_\_\_\_ failed to override the Mayor's veto.

\_\_\_\_\_  
President of City Council

ATTEST

\_\_\_\_\_  
City Clerk

# MEMORANDUM OF UNDERSTANDING

## PARTIES

- This Memorandum of Understanding (hereinafter referred to as the “**Agreement**”) is entered into on July 1, 2023 (the “**Effective Date**”) and will end on June 30, 2024, by and between One Colorado Education Fund, with an address of 303 East 17th Avenue, Suite 400, Denver, CO 80203 and the City of Pueblo, by and through the Pueblo Food Project, with an address of 1 City Hall Place, Pueblo, Colorado 81003 (collectively referred to as the “**Parties**”).

## PURPOSE

- This Agreement is entered into for the following reasons:
  1. To formalize a collaboration between One Colorado Education Fund and Pueblo Food Project to focus on reducing food insecurity in Pueblo County and around Colorado.
  2. To establish an agreement in accordance with the Colorado Department of Public Health and Environment’s (CDPHE) Health Disparities and Community Grant Program (HDCGP).
  3. To set guidelines, expectations, and timelines around grant deliverables, invoicing, and reporting.

## RESPONSIBILITIES OF ONE COLORADO EDUCATION FUND

1. To be the lead organization on the Health Disparities and Community Grant Program through the Colorado Department of Public Health and Environment.
2. To be accountable to CDPHE and to Pueblo Food Project on deliverables outlined in our Statement of Work and agreed to in our contract with CDPHE.
3. To include Pueblo Food Project in planning and implementation of grant deliverables.
4. To invoice CDPHE 45 days after the end of the month for reimbursement of approved grant related expenses.
5. To request and receive invoices from Pueblo Food Project within 20 days after the month for reimbursement of approved grant related expenses.
6. To reimburse Pueblo Food Project for approved grant related expenses within 45 days after the end of the month.
7. To collaborate with Pueblo Food Project on the upcoming FY24 (July 2023-June 2024) Statement of Work and planning with CDPHE and the following Statements of Work outlining deliverables through grant period ending December 31, 2024.

## **RESPONSIBILITIES OF PUEBLO FOOD PROJECT**

1. To be accountable to One Colorado Education Fund on deliverables outlined in this agreement.
2. To work with One Colorado Education Fund on planning and implementation of HDCGP related goals.
3. To provide proof of insurance to One Colorado Education Fund, showing the City of Pueblo is a self-insured entity in accordance with Colorado law.
4. To invoice One Colorado Education Fund for approved grant related expenses within 30 days of the month end. Total FY24 amount: \$55,000. Approved expense areas include:
  - Staff time
  - Data collection
  - Collaboration for SNAP PEAS and other partners
  - Healthy School Meals for All (Educational Purposes Only, No Lobbying)
  - Travel
  - Marketing/Social Media
4. To collaborate with One Colorado Education Fund on the upcoming FY24 (July 2023-June 2024) Statement of Work and planning with CDPHE and the following Statements of Work outlining deliverables through grant period ending December 31, 2024.
5. To collaborate with One Colorado Education Fund on HDCGP grant deliverables and goals:
  - a. Community advisory group
  - b. Food insecurity coalition
  - c. LGBTQ competency training, part one, implementation
  - d. LGBTQ competency training, part two, development
  - e. Identify individuals and organizations to participate in trainings
  - f. Data collection and sharing
  - g. Identifying existing and future policy goals

## **GOVERNING LAW AND VENUE**

- This Agreement shall be governed by and construed 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.

## **AMENDMENTS**

- The Parties agree that any amendments made to this Agreement must be in writing and they must be signed by both Parties to this Agreement.
- As such, any amendments made by the Parties will be applied to this Agreement.

## **ASSIGNMENT**

- The Parties hereby agree not to assign any of the responsibilities in this Agreement to a third party unless consented to by both Parties in writing.

## **ENTIRE AGREEMENT**

- This Agreement contains the entire agreement and understanding among the Parties hereto with respect to the subject matter hereof, and supersedes all prior agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof.

## **REPRESENTATION AND WARRANTIES**

- The Parties agree and disclose that they are authorized fully for entering this Agreement. Both Parties' performances and obligations are not to violate the rights of any third party or else violate other, if any, agreements made between them and/or any other organization, person, business or law/governmental regulation.

## **LIMITATION OF LIABILITY**

- Under no circumstances will either party be liable for any indirect, special, consequential, or punitive damages (including lost profits) arising out of or relating to this Agreement or the transactions it contemplates (whether for breach of contract, tort, negligence, or other form of action) in case such is not related to the direct result of one Party's negligence or breach.
- 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.

## **SEVERABILITY**

- In an event where any provision of this Agreement is found to be void and unenforceable by a court of competent jurisdiction, then the remaining provisions will remain to be enforced in accordance with the Parties' intention.

**SIGNATURE AND DATE**

- 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.
- The Parties hereby agree to the terms and conditions set forth in this Agreement and such is demonstrated throughout by their signatures below:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

-

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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Name: \_\_\_\_\_

Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

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Organization: \_\_\_\_\_

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Signature: \_\_\_\_\_

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Date: \_\_\_\_\_

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Name:

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Title:

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Organization:

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Signature:

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Date:

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Name:

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Title:

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Organization:

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Signature:

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Date:

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**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 26, 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 A PROFESSIONAL SERVICES AGREEMENT IN AN AMOUNT NOT TO EXCEED \$45,560 BETWEEN THE CITY OF PUEBLO AND FINANCIAL CONSULTING SOLUTIONS GROUP, INC., D.B.A. FCS GROUP FOR THE 2023 BIENNIAL WASTEWATER RATE REVIEW

**SUMMARY:**

This Ordinance accepts an agreement between the City and our Rate Consultant of Record, FCS Group, for professional services associated with providing sanitary sewer rate consulting.

**PREVIOUS COUNCIL ACTION:**

Ordinance No. 10429 awarded an agreement between the City of Pueblo and Financial Consulting Solutions Group, Inc., DBA FCS Group, Inc. and named Financial Consulting Solutions Group, Inc., DBA FCS Group, as the Rate Consultants of Record for the Pueblo Wastewater Department, on April 12, 2023.

**BACKGROUND:**

Section 16-6-26 and 16-6-37 of the Pueblo Municipal Code requires biennial review of sanitary sewer rates and fees. As an enterprise of the City of Pueblo, the Wastewater Department is obligated to collect sufficient funds through its rates and fees to pay for its operations. Operating and maintaining the infrastructure of these facilities entails increasing costs. Financial Consulting Solutions Group, Inc., DBA FCS Group, Inc. was selected as the Rate Consultant of Record for wastewater utility fees. The attached professional services agreement between the City and Financial Consulting Solutions Group, Inc., DBA FCS Group provides for the required biennial rate review and financial plan study in 2023.



**FINANCIAL IMPLICATIONS:**

Funding for the professional services related to the rate review are available from the Sewer User Fund.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable.

**STAKEHOLDER PROCESS:**

Not applicable.

**ALTERNATIVES:**

Not applicable. The Municipal Code requires that 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 in April of 2023.

**RECOMMENDATION:**

Approve.

**ATTACHMENTS:**

1. 23-030 Rate Study Schedules 1 - 3
2. Certificate of Good Standing
3. Colorado Secretary of State - Summary
4. 5-8-23 Convert Vacant AEII to Civ Engineer Wastewater
5. 06-12-23 Agreement for Rate Study 2023

ORDINANCE NO. 10489

AN ORDINANCE APPROVING A PROFESSIONAL SERVICES AGREEMENT IN AN AMOUNT NOT TO EXCEED \$45,560 BETWEEN THE CITY OF PUEBLO AND FINANCIAL CONSULTING SOLUTIONS GROUP, INC., D.B.A. FCS GROUP FOR THE 2023 BIENNIAL WASTEWATER RATE REVIEW

WHEREAS, Section 16-6-26 and 16-6-37 of the Pueblo Municipal Code requires biennial review of wastewater rates and fees; and

WHEREAS, Financial Consulting Solutions Group, Inc., DBA FCS Group, was selected as the Rate Consultant of Record for wastewater utility fees; NOW, THEREFORE,

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

SECTION 1.

The Agreement for Professional Services by and between Pueblo, a Municipal Corporation, and Financial Consulting Solutions Group, Inc., DBA FCS Group, Inc. a true copy of which is attached hereto and incorporated herein by reference (the "Agreement") having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

Work performed under this Agreement includes review and analysis of wastewater rates and charges, including user charges, excessive strength surcharges, industrial pretreatment charges, and system development fee use policies, and related ancillary services with respect to the 2023 biennial review.

SECTION 3.

Funds for payment for professional services under said Agreement shall be paid from appropriated funds budgeted in the City's 2023 Budget from the Sewer User Fund.

SECTION 4.

The Mayor is authorized to execute and deliver the Agreement on behalf of Pueblo, a municipal corporation, acting by and through its Wastewater Enterprise.

SECTION 5.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance and the attached Agreement, to implement the policies and procedures described therein.

**SECTION 6.**

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

**Action by City Council:**

Introduced and initial adoption of Ordinance by City Council on June 12, 2023.

Final adoption of Ordinance by City Council on June 26, 2023.



\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☒ Approved on June 29, 2023.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



\_\_\_\_\_  
Mayor

**Action by City Council After Disapproval by the Mayor:**

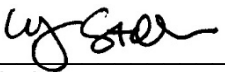
☐ Council did not act to override the Mayor's veto.

☐ 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

## Schedule 1

Excerpt from Proposer's Submittal dated May 10, 2023, pages 1 - 2

The proposed scope of work for updating the City of Pueblo's wastewater rates for 2024. The update will include updates to the monthly user charges and the plant investment and connection fees. To meet the City's stated needs, we propose to conduct a comprehensive update to the 10-year forecast last prepared for the City as part of its 2021 Rate Study. The forecast is a financial planning model that will allow us to work with you to develop alternative scenarios for funding the CIP, issuing and supporting new debt, and managing the Department's cash reserves. In addition, we can provide the City with the expected revenue increase required for each scenario to meet its projected needs.

### Task 1 – Project Initiation

The project initiation includes all data gathering needed for the update and most project management tasks necessary to complete the project within the City's timeframe.

- a) Kickoff Meeting
- b) Information Request
- c) Information Review
- d) Monthly Status Meetings

### Task 2 – Forecast of Revenue Requirements

The second task will include all the efforts required to update the forecasted revenue requirements from two years ago.

- a) Prepare preliminary model and calibrate to 2021 outcomes. We will prepare a new financial forecast model using FCS GROUP's standard modeling framework in this task. Because another firm prepared the previous update, we will populate the preliminary model with the inputs and assumptions from the previous update. We will then conduct a variance analysis and adjust our model until we can replicate the previous results.
- b) Update the revenue requirement forecast. Once the model has been calibrated, we will add the new inputs from the information request.
- c) Evaluate the updated forecast with the City. First, we will review the outcomes from the updated model with the City. Then, if needed, we will prepare alternative financing scenarios to achieve the City's goals of maintaining average residential bills at < 1.5% of the median household income level.

- d) Prepare the final scenarios and recommended rate adjustments. Based on our review with the City, we will prepare a final set of scenarios, including a recommended set of revenue adjustments.

### Task 3 – PIF and Connection Fee Update

- a) Update asset values for the treatment plant and collection systems. We will update the asset values used in the fee calculations. All data and information required will have been requested in the initial information request.
- b) Update capacity values if needed. Unless the City identifies an increase in treatment or collection system capacity, we intend to use the same capacity values shown in the previous update.
- c) Recalculate unit costs. We will determine a unit cost for treatment and a separate one for the collection system consistent with the City's previous update.
- d) Review the findings with the City. We will review the initial findings with the City and make revisions as needed based on the City's feedback.
- e) Prepare final scenarios and recommended fee adjustments. We will prepare the final scenarios and recommendations after reviewing our findings with the City.

### Task 4 – Documentation and Presentation of Findings

- a) Prepare draft report. We will prepare a draft report in substantially the same format as the previous update effort.
- b) Prepare Council study session materials. We will prepare PowerPoint presentation materials summarizing our findings and recommendations in enough depth for a Council study session.
- c) Review draft report with City. We will transmit the draft report to the City after completing it. The City will have at least two weeks to provide written comments, after which time we will
- d) Attend meetings with the City Council. We will attend up to two Council meetings to present our findings and recommendations.
- e) Finalize the report. We will prepare the final report incorporating the City's comments from the draft report.

**Schedule 2**  
**Excerpt from Proposer's Submittal dated May 10, 2023, pages 3 - 4**

## Budget

| Task         | Mumm        | Hobart      | Richard     | Hansen     | Total       |
|--------------|-------------|-------------|-------------|------------|-------------|
| Task 1       | 2           | 4           | 8           | 0          | 14          |
| Task 2       | 4           | 24          | 48          | 0          | 76          |
| Task 3       | 4           | 8           | 0           | 24         | 36          |
| Task 3       | 24          | 24          | 8           | 8          | 64          |
| Total        | 34          | 60          | 64          | 32         | 190         |
| Rate         | \$320.00    | \$280.00    | \$190.00    | \$160.00   |             |
| Total        | \$10,880.00 | \$16,800.00 | \$12,160.00 | \$5,120.00 | \$44,960.00 |
| Expenses     |             |             |             |            | \$600.00    |
| Total Budget |             |             |             |            | \$45,560.00 |

**FCS GROUP**  
**2023 STANDARD FEE SCHEDULE**  
***Effective December 5, 2022***

**LABOR**

| <b><u>POSITION/TITLE</u></b>                       |               | <b><u>BILLING RATE</u></b> |
|----------------------------------------------------|---------------|----------------------------|
| Principals                                         | Standard Rate | \$320                      |
| Project Managers                                   | Standard Rate | \$230                      |
| Consultants                                        | Standard Rate | \$190                      |
| Analysts                                           | Standard Rate | \$160                      |
| <b><u>Administrative and Technical Support</u></b> |               |                            |
| 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 before expenditure and billing.

**SUBCONSULTANTS**

When applicable, subconsultants will be charged at the invoiced cost plus 10%.



## Scheduling

Substantial completion of the analytical work in Task 3 will occur on or before August 18, 2023. The draft report and the Council study session materials will be completed on or before September 1<sup>st</sup>. The final report will be prepared within two weeks after the City Council meetings are completed.

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 05/15/2023 that have been posted, and by documents delivered to this office  
electronically through 05/16/2023 @ 14:19:32 .

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 05/16/2023 @ 14:19:32 in accordance with applicable law.  
This certificate is assigned Confirmation Number 14973056 .



*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."*



**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 |

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**BACKGROUND PAPER FOR PROPOSED  
ORDINANCE**

**COUNCIL MEETING DATE: May 8, 2023**

TO: President Heather Graham and Members of City Council  
CC: Mayor Nicholas A. Gradisar  
VIA: Marisa Stoller, City Clerk  
FROM: Marisa Pacheco, Human Resources Director  
Andra Ahrens, Wastewater Director  
SUBJECT: AN ORDINANCE AMENDING THE FISCAL YEAR 2023 STAFFING ORDINANCE  
BY CONVERTING A VACANT POSITION WITHIN THE WASTEWATER  
DEPARTMENT

**SUMMARY:**

The Wastewater Director, with Mayor Gradisar's approval, requests to convert a currently vacant position in the Wastewater Department from an Associate Engineer II to a new classification of Civil Engineer Wastewater to improve operational efficiencies within the department.

**PREVIOUS COUNCIL ACTION:**

On December 27, 2022, City Council approved Ordinance No. 10363. This Ordinance provided authorized staffing for Fiscal Year 2023.

**BACKGROUND:**

The Wastewater Department requests to convert one currently vacant WW-Associate Engineer II position to a new classification of Civil Engineer – Wastewater. The department has been unable to fill the Associate Engineer II position which has been posted four times since October 2022 with no applicants. While the vacancy has created a workload imbalance for the remaining staff, it has also afforded the Engineering Division the opportunity to review internal engineering operations and to assess what level of position would optimize efficiency in this busy division of the Wastewater Department.

Wastewater provides engineering services but is the only City department with an engineering function that does not have a professional, journey-level civil engineer position. The conversion of this vacancy will result in the Engineering Division operating more efficiently. Project management, oversight of the construction team, ensuring project close out is complete, and coordinating with other City Departments, previously assigned to the Wastewater Engineering Manager will be re-assigned to this position. This will allow the Wastewater Engineering Manager to focus on other mission critical and higher-level management tasks such as completing the Wastewater Design Criteria and other documents, training new employees, writing various procedures, and performing subdivision reviews in a more efficient manner. Another ancillary

benefit is that the creation of this classification will provide a career ladder for others in the City who are currently or who have pursued professional engineering licensure. The City's ability to attract and retain engineering talent has been difficult. By creating another professional civil engineer position, the opportunity for internal promotion will ideally result in retaining talented staff and growing the Wastewater Department's and City's engineering capacity.

**FINANCIAL IMPLICATIONS:**

This is zero net change to staffing levels within the Wastewater Department.

The cost to convert the vacancy is the difference between the Associate Engineer II and the Civil Engineer Wastewater position, estimated to be \$2,377 per month (includes salary related benefits), or \$28,523 annually. Funding for this cost increase will come from the Wastewater Enterprise Fund.

Assuming the position will be filled in July, the cost difference for the remainder of the year is approximately \$16,639 and can be absorbed by the department's existing 2023 budget. No additional funding is required for 2023.

**BOARD/COMMISSION RECOMMENDATION:**

Not Applicable.

**STAKEHOLDER PROCESS:**

None

**ALTERNATIVES:**

The no action alternative would be to retain the current staffing levels which would eliminate any opportunity to re-balance staff workload and enhance department efficiencies.

**RECOMMENDATION:**

Approval of the Ordinance.

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE FISCAL YEAR 2023  
STAFFING ORDINANCE BY CONVERTING A VACANT  
POSITION WITHIN THE WASTEWATER DEPARTMENT

WHEREAS, it is necessary to revise the positions for the ultimate efficiency and functionality for the Wastewater Department;

NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscore indicates matter being added)

SECTION 1.

The following section captioned "Wastewater Engineering" "of Ordinance No. 10363, being the 2023 Staffing Ordinance, is amended as follows:

The following positions shall be authorized for FY 2023:

**Wastewater-Engineering**

|                                  |          |
|----------------------------------|----------|
| Associate Engineer II WW         | [2]1     |
| WW Data Technician II            | 1        |
| WW Data Technician               | 1        |
| WW Engineering Manager           | 1        |
| <u>Civil Engineer Wastewater</u> | <u>1</u> |
| Associate Field Engineer         | 1        |
| <u>Inspector/WW</u>              | <u>2</u> |
| <b>Total</b>                     | <b>8</b> |

SECTION 2.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with the intent of this Ordinance to effectuate, and transactions described therein.

SECTION 3.

This Ordinance shall be deemed to amend the Fiscal Year 2023 Budget and staffing with respect to the allocation of positions within the Wastewater 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 May 8, 2023.

Final adoption of Ordinance by City Council on May 22, 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



**AGREEMENT 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 -  
RATE STUDY 2023



## **AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES BY AND BETWEEN CITY OF PUEBLO AND FINANCIAL CONSULTING SOLUTIONS GROUP, INC. DBA FCS GROUP**

THIS AGREEMENT ("Agreement") made and entered this Thursday, March 30, 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 professional and related services for City in connection with Bid 23-030 Wastewater Rate Consultant of Record - Rate Study 2023, 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 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 study, research, reporting, calculations, presentation and related ancillary consulting services including any incidental 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 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 Services 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, 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 reports, documents, or other materials and/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 \$45,560.00 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, reports, 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 Wastewater Department, Attn: Andra Ahrens, Director, 1300 S. Queens Ave., Pueblo, CO, 81001 or to the Consultant, Financial Consulting Solutions Group, Inc. dba FCS Group, Attn: John Ghilarducci, President, 7525 166th Ave. NE, Ste D-215, Redmond, WA, 98052. 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 the bid and Master Contract for 23-030 Wastewater Rate Consultant of Record 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. INSURANCE**

## **9.1. 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.

## 9.2. 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.



## **10. ACCESSIBILITY**

The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility for first occupancy later than January 26, 1993, that does not meet the accessibility and usability requirements of the ADA except where an entity can demonstrate that it is structurally impractical to meet such requirements. The 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.

## **11. IMMIGRATION REFORM AND CONTROL ACT OF 1986**

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

## **12. 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.

## **13. SCHEDULES**

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

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

## **14. ELECTRONIC SIGNATURE**

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

*(Signature section on following page.)*

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

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

CITY OF PUEBLO, A MUNICIPAL CORPORATION

FCS GROUP

By \_\_\_\_\_  
Naomi Hedden, Director of Purchasing

By \_\_\_\_\_  
Jason Mumm, Principal

Attest \_\_\_\_\_  
Marisa Stoller, City Clerk

[SEAL]

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

\_\_\_\_\_  
Alexandria Romero, Finance Director

APPROVED AS TO FORM

\_\_\_\_\_  
Robert P. Jagger, City Attorney

Attachments: Schedule 1 - Scope of Services  
Schedule 2 - Fee Schedule  
Schedule 3 - Project Schedule  
Additional Information for Agreement

## Schedule 1

Excerpt from Proposer's Submittal dated May 10, 2023, pages 1 - 2

The proposed scope of work for updating the City of Pueblo's wastewater rates for 2024. The update will include updates to the monthly user charges and the plant investment and connection fees. To meet the City's stated needs, we propose to conduct a comprehensive update to the 10-year forecast last prepared for the City as part of its 2021 Rate Study. The forecast is a financial planning model that will allow us to work with you to develop alternative scenarios for funding the CIP, issuing and supporting new debt, and managing the Department's cash reserves. In addition, we can provide the City with the expected revenue increase required for each scenario to meet its projected needs.

### Task 1 – Project Initiation

The project initiation includes all data gathering needed for the update and most project management tasks necessary to complete the project within the City's timeframe.

- a) Kickoff Meeting
- b) Information Request
- c) Information Review
- d) Monthly Status Meetings

### Task 2 – Forecast of Revenue Requirements

The second task will include all the efforts required to update the forecasted revenue requirements from two years ago.

- a) Prepare preliminary model and calibrate to 2021 outcomes. We will prepare a new financial forecast model using FCS GROUP's standard modeling framework in this task. Because another firm prepared the previous update, we will populate the preliminary model with the inputs and assumptions from the previous update. We will then conduct a variance analysis and adjust our model until we can replicate the previous results.
- b) Update the revenue requirement forecast. Once the model has been calibrated, we will add the new inputs from the information request.
- c) Evaluate the updated forecast with the City. First, we will review the outcomes from the updated model with the City. Then, if needed, we will prepare alternative financing scenarios to achieve the City's goals of maintaining average residential bills at < 1.5% of the median household income level.

- d) Prepare the final scenarios and recommended rate adjustments. Based on our review with the City, we will prepare a final set of scenarios, including a recommended set of revenue adjustments.

### Task 3 – PIF and Connection Fee Update

- a) Update asset values for the treatment plant and collection systems. We will update the asset values used in the fee calculations. All data and information required will have been requested in the initial information request.
- b) Update capacity values if needed. Unless the City identifies an increase in treatment or collection system capacity, we intend to use the same capacity values shown in the previous update.
- c) Recalculate unit costs. We will determine a unit cost for treatment and a separate one for the collection system consistent with the City's previous update.
- d) Review the findings with the City. We will review the initial findings with the City and make revisions as needed based on the City's feedback.
- e) Prepare final scenarios and recommended fee adjustments. We will prepare the final scenarios and recommendations after reviewing our findings with the City.

### Task 4 – Documentation and Presentation of Findings

- a) Prepare draft report. We will prepare a draft report in substantially the same format as the previous update effort.
- b) Prepare Council study session materials. We will prepare PowerPoint presentation materials summarizing our findings and recommendations in enough depth for a Council study session.
- c) Review draft report with City. We will transmit the draft report to the City after completing it. The City will have at least two weeks to provide written comments, after which time we will
- d) Attend meetings with the City Council. We will attend up to two Council meetings to present our findings and recommendations.
- e) Finalize the report. We will prepare the final report incorporating the City's comments from the draft report.

**Schedule 2**  
**Excerpt from Proposer's Submittal dated May 10, 2023, pages 3 - 4**

**Budget**

| Task         | Mumm        | Hobart      | Richard     | Hansen     | Total       |
|--------------|-------------|-------------|-------------|------------|-------------|
| Task 1       | 2           | 4           | 8           | 0          | 14          |
| Task 2       | 4           | 24          | 48          | 0          | 76          |
| Task 3       | 4           | 8           | 0           | 24         | 36          |
| Task 3       | 24          | 24          | 8           | 8          | 64          |
| Total        | 34          | 60          | 64          | 32         | 190         |
| Rate         | \$320.00    | \$280.00    | \$190.00    | \$160.00   |             |
| Total        | \$10,880.00 | \$16,800.00 | \$12,160.00 | \$5,120.00 | \$44,960.00 |
| Expenses     |             |             |             |            | \$600.00    |
| Total Budget |             |             |             |            | \$45,560.00 |

**FCS GROUP**  
**2023 STANDARD FEE SCHEDULE**  
***Effective December 5, 2022***

**LABOR**

| <b><u>POSITION/TITLE</u></b>                           |               | <b><u>BILLING RATE</u></b> |
|--------------------------------------------------------|---------------|----------------------------|
| Principals                                             | Standard Rate | \$320                      |
| Project Managers                                       | Standard Rate | \$230                      |
| Consultants                                            | Standard Rate | \$190                      |
| Analysts                                               | Standard Rate | \$160                      |
| <br><b><u>Administrative and Technical Support</u></b> |               |                            |
| 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 before expenditure and billing.

**SUBCONSULTANTS**

When applicable, subconsultants will be charged at the invoiced cost plus 10%.

## Scheduling

Substantial completion of the analytical work in Task 3 will occur on or before August 18, 2023. The draft report and the Council study session materials will be completed on or before September 1<sup>st</sup>. The final report will be prepared within two weeks after the City Council meetings are completed.

## **ADDITIONAL INFORMATION FOR AGREEMENT**

Certificate of Good Standing

Colorado PERA Questionnaire

Insurance Certificates





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## Summary

| Details                                 |                                                        |                       |               |
|-----------------------------------------|--------------------------------------------------------|-----------------------|---------------|
| <b>Name</b>                             | Financial Consulting Solutions Group, Inc.             |                       |               |
| <b>Status</b>                           | Good Standing                                          | <b>Formation date</b> | 10/01/2007    |
| <b>ID number</b>                        | 20071451891                                            | <b>Form</b>           | Foreign Other |
| <b>Periodic report month</b>            | August                                                 | <b>Jurisdiction</b>   | Washington    |
| <b>Principal office street address</b>  | 7525 166th Ave NE Ste D215, Redmond, WA 98052-6672, US |                       |               |
| <b>Principal office mailing address</b> | 7525 166th Ave NE Ste D215, Redmond, WA 98052-6672, US |                       |               |

| Registered Agent       |                                                           |
|------------------------|-----------------------------------------------------------|
| <b>Name</b>            | C T Corporation System                                    |
| <b>Street address</b>  | 7700 E Arapahoe Rd Ste 220, Centennial, CO 80112-1268, US |
| <b>Mailing address</b> | 7700 E Arapahoe Rd Ste 220, Centennial, CO 80112-1268, US |

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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 05/24/2023 that have been posted, and by documents delivered to this office  
electronically through 05/25/2023 @ 12:49:17 .

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 05/25/2023 @ 12:49:17 in accordance with applicable law.  
This certificate is assigned Confirmation Number 15010805 .



*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, date of birth, and social security number of each such PERA Retiree. If more than two, please attach a supplemental list.

| Name | Address | DOB | Social Security Number |
|------|---------|-----|------------------------|
| Name | Address | DOB | 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:  Title: Accounting Manager

Printed Name: Diane Harmon Date: March 16, 2023



**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 26, 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:** AN ORDINANCE CHANGING CAPITAL PROJECT NO. CI2306 - ICE ARENA RESTROOM EXPANSION TO CAPITAL PROJECT NO. CI2306 - ICE ARENA RENOVATIONS

**SUMMARY:**

The attached Ordinance will approve changing Capital Project No. CI2306 – Ice Arena Restroom Expansion to Capital Project No. CI2306 – Ice Arena Renovations.

**PREVIOUS COUNCIL ACTION:**

Not applicable to this Ordinance.

**BACKGROUND:**

On September 12, 2022, City Council approved Ordinance No. 10270 which approved and accepted a Lease and Management Agreement with the Pueblo Bulls Hockey Club, Inc. to operate and maintain the Pueblo Ice Arena through August 28, 2027.

Capital Project No. 2306 – Ice Arena Restroom Expansion was created, budgeted, and appropriated during the 2023 budget process. It was during this time, the Pueblo Bulls Hockey Club, Inc. was planning on expanding the existing public restroom facilities in the Ice Arena to better serve patrons during Pueblo Bulls hockey games and other special events.

In March 2023, Pueblo Bulls Hockey Club, Inc. made the decision to look at other necessary renovations and improvements within the Ice Arena that would enhance the customer experience and allow the arena to be more multi-purpose. Some of these improvements include the purchase of a ProDeck Ice Floor Cover for use to cover the ice to hold events other than “ice” related events such as concerts, bull riding events,

car shows, etc.; additional VIP seating areas within the Ice Hall area; and improvements to the concession cafeteria area to improve concession service.

The Parks and Recreation Department requests that Capital Project No. CI2306 – Ice Arena Restroom Expansion be changed to Capital Project No. CI2306 – Ice Arena Renovations, renaming the project and expanding its purpose to cover all Ice Arena renovations, not just those limited to restroom expansion.

**FINANCIAL IMPLICATIONS:**

Capital Project No. CI2306 has a budget of \$500,000. These funds will be used for Ice Arena renovations and improvements. The Pueblo Bulls Hockey Club, Inc. has proposed that the City pay 60% of improvement and renovation expenses, while it will be responsible for paying the remaining 40% of improvement and renovation expenses. Any such improvements and the splitting of costs will be addressed through addendums or other agreements between the parties.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable to this Ordinance.

**STAKEHOLDER PROCESS:**

Not applicable to this Ordinance.

**ALTERNATIVES:**

If this Ordinance is not approved, the project name and purpose will remain limited.

**RECOMMENDATION:**

Approval of the Ordinance.

**ATTACHMENTS:**

None

ORDINANCE NO. 10490

AN ORDINANCE CHANGING CAPITAL PROJECT NO. CI2306 - ICE ARENA  
RESTROOM EXPANSION TO CAPITAL PROJECT NO. CI2306 - ICE ARENA  
RENOVATIONS

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

SECTION 1.

Capital Project No. CI2306 – Ice Arena Restroom Expansion is hereby changed to  
Capital Project No. CI2306 – Ice Arena Renovations, expanding the purpose of the project to  
include all Ice Arena renovations, and is hereby approved.

SECTION 2.

The officers and staff of the City are authorized and directed 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 June 12, 2023.

Final adoption of Ordinance by City Council on June 26, 2023.



\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☒ Approved on June 29, 2023.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



\_\_\_\_\_  
Mayor

**Action by City Council After Disapproval by the Mayor:**

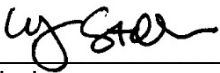
☐ Council did not act to override the Mayor's veto.

☐ 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:** June 26, 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, October 14, 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, October 14, 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.CITY OF PUEBLO CLEAN UP 10142023

ORDINANCE NO. 10491

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 June 12, 2023.

Final adoption of Ordinance by City Council on June 26, 2023.

  
\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☒ Approved on June 29, 2023.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

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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](mailto: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, OCTOBER 14, 2023**

**Time of Event: 8:00 AM TO 3:00 PM**

**Authorized MOVE IN period: 8:00 AM to 7:00 PM on FRIDAY, OCTOBER 13, 2023**

**Move-Out Period: BY 5:00 PM MONDAY, OCTOBER 16, 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.

|                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>USER/Contractor:</b><br><br><b><u>City of Pueblo, a Colorado municipal corporation</u></b><br>Legal Name of Contracting Entity<br><br><br>_____<br>Signature of Authorized Officer*<br><br><b>Nicholas A. Gradisar, Mayor</b><br>_____<br>Printed Name & Title of Authorized Officer<br><br><br>_____<br>Date<br><br><b>84-6000615</b><br>_____<br>FEIN | <b>State of Colorado:</b><br><b>Colorado State Fair Authority</b><br>1001 Beulah Ave.<br>Pueblo, CO 81004<br>719.561.8484<br><br><br>_____<br>Scott Stoller, General Manager<br><br><br><br><br>_____<br>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:** June 26, 2023

**TO:** President Heather Graham and Members of City Council

**CC:** Mayor Nicholas A. Gradisar

**VIA:** Marisa Stoller, City Clerk

**FROM:** Alexandria Romero, Director of Finance

**SUBJECT:** AN ORDINANCE AMENDING APPROPRIATIONS AND COMPILING PREVIOUS AMENDMENTS TO THE GENERAL FUND, SPECIAL REVENUE FUNDS, ENTERPRISE FUNDS, INTERNAL SERVICE FUNDS, DEBT SERVICE FUNDS AND CAPITAL PROJECT FUNDS FOR THE FISCAL YEAR 2022 AND AMENDING THE BUDGET FOR THE YEAR 2022

**SUMMARY:**

Attached is an Ordinance amending the original 2022 budget Ordinance to incorporate changes made throughout the year.

**PREVIOUS COUNCIL ACTION:**

Ordinance 10050, passed and approved by the City Council on November 22, 2021, adopting the Budget for the fiscal year 2022.

**BACKGROUND:**

In November of 2021, the City Council adopted the annual budget for the year 2022. During the year, due to various operational changes, the City Council adopted several Ordinances and Resolutions amending that budget. This Ordinance also incorporates changes and corrections as dictated through the year-end closing process, as well as adjustments to departmental budgets as necessary. This Ordinance accumulates all of these items into one summary Ordinance, which reflects the final revised Budget for the year 2022. For the General Fund, the sum of the budget amendment for the year 2022 is \$1,494,245. The preliminary unaudited Financial Statements for 2022 show the General Fund balance ending at a strong point, with a fund balance that is greater than was originally projected in the 2022 Adopted Budget.



**FINANCIAL IMPLICATIONS:**

This action summarizes previously approved council and administrative changes to the budget and makes additional budget changes as needed.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable to this Ordinance.

**STAKEHOLDER PROCESS:**

Not applicable to this Ordinance.

**ALTERNATIVES:**

Not applicable to this Ordinance.

**RECOMMENDATION:**

Approval of the Ordinance.

**ATTACHMENTS:**

1. 2022 Year end adjust budget reconciliation

ORDINANCE NO. 10492

AN ORDINANCE AMENDING APPROPRIATIONS AND COMPILING PREVIOUS AMENDMENTS TO THE GENERAL FUND, SPECIAL REVENUE FUNDS, ENTERPRISE FUNDS, INTERNAL SERVICE FUNDS, DEBT SERVICE FUNDS AND CAPITAL PROJECT FUNDS FOR THE FISCAL YEAR 2022 AND AMENDING THE BUDGET FOR THE YEAR 2022

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

SECTION #1.

The budget for the fiscal year 2022, with amendments made thereto by the City Council, the original of which is on file with the Director of Finance, is incorporated herein in full, and hereby approved.

SECTION #2.

The General Fund Revenue for Fiscal Year 2022 is hereby amended as follows:

| <b>SOURCE</b>             | <b>ORIGINAL</b>    | <b>FINAL AMENDED</b> |
|---------------------------|--------------------|----------------------|
| Taxes                     | 96,538,254         | 96,538,254           |
| Licenses & Permits        | 907,500            | 907,500              |
| Intergovernmental         | 3,412,020          | 3,412,020            |
| Charges for Service       | 4,485,489          | 4,485,489            |
| Fines & Forfeits          | 1,749,300          | 1,749,300            |
| Other Revenue             | 557,000            | 557,000              |
| Transfers In              | 3,893,606          | 3,893,606            |
| Fund Balance              | 4,228              | 1,498,473            |
| <b>General Fund Total</b> | <b>111,547,397</b> | <b>113,041,642</b>   |

SECTION #3.

The General Fund Appropriation by Department for the Fiscal Year 2022 is hereby amended as follows:

| <b>SOURCE</b>      | <b>ORIGINAL</b> | <b>FINAL AMENDED</b> |
|--------------------|-----------------|----------------------|
| General Government | 15,643,124      | 15,654,838           |
| Police             | 32,469,619      | 32,147,957           |
| Fire               | 21,066,881      | 21,066,881           |
| Public Works       | 9,056,904       | 8,611,904            |
| Parks              | 7,200,804       | 7,202,404            |
| Non-Departmental   | 7,985,237       | 7,986,923            |

|                           |                    |                    |
|---------------------------|--------------------|--------------------|
| Transfers Out             | 18,124,828         | 20,370,735         |
| <b>General Fund Total</b> | <b>111,547,397</b> | <b>113,041,642</b> |

**SECTION #4.**

The estimated Revenues as well as the budgeted Expenditures of the Special Revenue Funds, Enterprise Funds, Internal Service Funds, Debt Service Funds, and Capital Project Funds for the Fiscal Year 2022 are hereby amended as follows:

| <b>OTHER FUNDS</b>       | <b>ORIGINAL</b> | <b>FINAL AMENDED</b> |
|--------------------------|-----------------|----------------------|
| INTERGOVERNMENTAL        | 5,589,361       | 13,837,409           |
| SPECIAL CHARGES          | 4,883,601       | 5,259,760            |
| SPECIAL DISTRICT         | 674,063         | 739,063              |
| OTHER SPECIAL REVENUE    | 399,878         | 551,809              |
| HUD GRANTS               | 3,455,000       | 13,691,169           |
| STIMULUS GRANTS          | 29,200          | 29,200               |
| PUBLIC IMPROVEMENTS      | 10,111,245      | 73,243,160           |
| DEBT SERVICE FUND        | 3,845,301       | 3,845,301            |
| ECONOMIC DEVELOPMENT TAX | 15,046,345      | 50,553,811           |
| PUBLIC SAFETY TAX        | 6,096,048       | 6,504,761            |
| ELMWOOD GOLF COURSE      | 1,539,485       | 1,690,485            |
| WALKINGSTICK GOLF COURSE | 1,418,650       | 1,522,650            |
| HONOR FARM PROPERTIES    | 116,898         | 135,898              |
| MEMORIAL HALL            | 1,319,304       | 1,419,304            |
| MEMORIAL AIRPORT         | 2,146,021       | 5,852,189            |
| PUEBLO TRANSIT           | 6,202,678       | 11,857,841           |
| PARKING FACILITIES       | 748,972         | 874,324              |
| WASTEWATER ENTERPRISE    | 28,990,211      | 59,634,000           |
| STORMWATER UTILITY       | 5,751,452       | 17,265,928           |
| STREET REPAIR UTILITY    | 928,000         | 2,064,511            |
| INTERNAL SERVICE FUNDS   | 19,601,096      | 20,101,096           |

**SECTION #5.**

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

**SECTION #6.**

No expenditures shall be made, or warrants issued against any monies appropriated, except in strict conformity with the Charter of the City of Pueblo and in accordance with the provisions of this Ordinance.

**SECTION #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 June 12, 2023.

Final adoption of Ordinance by City Council on June 26, 2023.



\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☒ Approved on June 29, 2023.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



\_\_\_\_\_  
Mayor

**Action by City Council After Disapproval by the Mayor:**

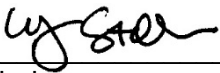
☐ Council did not act to override the Mayor's veto.

☐ 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

# RECONCILIATION OF BUDGET ADJUSTMENT

## FINAL BUDGET - 2022

| FUND                                                              | ORIGINAL    | ADJUSTED    | DIFF              |   |
|-------------------------------------------------------------------|-------------|-------------|-------------------|---|
| General Fund (101)                                                | 111,547,397 | 113,041,642 | <b>1,494,245</b>  |   |
| Ordinance #10303 - Council Contingencies Goodnight Barn           |             |             | 15,000            |   |
| Ordinance #10188 - CI2205 3 Fire Stations Design                  |             |             | 609,245           |   |
| Ordinance #10110 - CI2205 3 Fire Stations Design                  |             |             | 600,000           |   |
| Ordinance #10202 - CI2205 3 Fire Stations Design                  |             |             | 270,000           |   |
| <b>Total Adjustments:</b>                                         |             |             | <b>1,494,245</b>  | - |
| Intergovernmental (210, 213, 216, 217)                            | 5,589,361   | 13,837,409  | <b>8,248,048</b>  |   |
| Federal Forfeiture project carryforward                           |             |             | 18,193            |   |
| HUFT project carryforward                                         |             |             | 6,914,458         |   |
| Lottery project carryforward                                      |             |             | 1,315,397         |   |
| <b>Total Adjustments:</b>                                         |             |             | <b>8,248,048</b>  | - |
| Special Charges (231, 232, 233, 234, 235)                         | 4,883,601   | 5,259,760   | <b>376,159</b>    |   |
| YE Budget Adjustment - Fund Balance/Balance Expenses              |             |             | 155,000           |   |
| E911 Project Carryforward                                         |             |             | 221,159           |   |
| <b>Total Adjustments:</b>                                         |             |             | <b>376,159</b>    | - |
| Special Districts (290, 291, 292, 293)                            | 674,063     | 739,063     | <b>65,000</b>     |   |
| YE Budget Adjustment - Fund Balance/Balance Expenses              |             |             | 65,000            |   |
| <b>Total Adjustments:</b>                                         |             |             | <b>65,000</b>     | - |
| Other Special Revenue (220, 221, 223, 225)                        | 399,878     | 551,809     | <b>151,931</b>    |   |
| YE Budget Adjustment - Fund Balance/Balance Expenses              |             |             | 151,931           |   |
| <b>Total Adjustments:</b>                                         |             |             | <b>151,931</b>    | - |
| HUD Grants (240, 241, 250, 251, 252, 254)                         | 3,455,000   | 13,691,169  | <b>10,236,169</b> |   |
| CDBG Project Carryforward                                         |             |             | 4,613,641         |   |
| HOME Project Carryforward                                         |             |             | 2,848,162         |   |
| Ordinance #10215 - CDBG Annual Plan                               |             |             | (356,560)         |   |
| Ordinance #10134 - Amend Budget CDBG Annual Plan                  |             |             | 40,000            |   |
| Ordinance #10129 - Establish 255 Fund (HOME ARP Grant)            |             |             | 3,090,925         |   |
| <b>Total Adjustments:</b>                                         |             |             | <b>10,236,169</b> | - |
| Stimulus Grants (240, 241)                                        | 29,200      | 29,200      | -                 |   |
| <b>Total Adjustments:</b>                                         |             |             | -                 | - |
| Public Improvements (260, 263, 264, 265, 401, 402)                | 10,111,245  | 73,243,160  | <b>63,131,915</b> |   |
| Capital Improvement Project Carryforward                          |             |             | 28,497,081        |   |
| Planning Grant Project Carryforward                               |             |             | 4,239,911         |   |
| Public Safety Grant Project Carryforward                          |             |             | 640,881           |   |
| Transportation Grants Project Carryforward                        |             |             | 415               |   |
| Transportation Planning Grant Project Carryforward                |             |             | 613,288           |   |
| ARPA Tranche #2                                                   |             |             | 18,203,501        |   |
| Deobligate Grant Funds PS2017                                     |             |             | (1,029)           |   |
| Ordinance #10094 - PS2113 Community Policing Dvelopment           |             |             | 53,186            |   |
| Ordinance #10110 - CI2205 3 Fire Stations Design                  |             |             | 600,000           |   |
| Ordinance #10100 - CI2014 Pueblo Food Project Implementation      |             |             | 13,600            |   |
| Ordinance #10116 - CI2207 Pueblo Food Project (State Dept of Law) |             |             | 99,388            |   |

| FUND                                                                                                | ORIGINAL   | ADJUSTED   | DIFF              |   |
|-----------------------------------------------------------------------------------------------------|------------|------------|-------------------|---|
| Ordinance #10117 - PS2201 Park Ranger Vests Grant                                                   |            |            | 2,500             |   |
| Ordinance #10118 - PS2202 Police Bicycles Firehouse Subs Grant                                      |            |            | 9,603             |   |
| Ordinance #10120 - CI2206 Adams & Jackson Roundabout Grant                                          |            |            | 900,000           |   |
| Ordinance #10130 - PS2204 Community Outreach Grant Pueblo Triple Aim                                |            |            | 42,300            |   |
| Ordinance #10147 - CI1914 IGA w/Pueblo County Eastside Pedestrian & Streetscapces                   |            |            | 100,000           |   |
| Ordinance #10150 - PS2203 Fire Department Nurse Navigation Grant                                    |            |            | 201,869           |   |
| Ordinance #10160 - CI2120 Union & Main Design & Construction Grant                                  |            |            | 2,000,000         |   |
| Ordinance #10179 - CI2208 Union Bridger Repairs Grant                                               |            |            | 201,000           |   |
| Ordinance #10188 - CI2205 3 Fire Stations Design                                                    |            |            | 609,245           |   |
| Ordinance #10200 - PL1903 Teaming Up for Trees Grant                                                |            |            | 7,273             |   |
| Ordinance #10201 - CI2120 Union & Main Design & Construction Grant                                  |            |            | 680,891           |   |
| Ordinance #10202 - CI2205 3 Fire Stations Design                                                    |            |            | 270,000           |   |
| Ordinance #10222 - CI2211 Swimming Pools Initiative Grant                                           |            |            | 25,000            |   |
| Ordinance #10226 - PS2206 POST grant                                                                |            |            | 193,997           |   |
| Ordinance #10227 - PS2207 CAPTA grant                                                               |            |            | 99,371            |   |
| Ordinance #10264 - PS2208 Fire Department DOTS Grant                                                |            |            | 8,042             |   |
| Ordinance #10265 - TP2201 Rural Transportation Planning Grant                                       |            |            | 7,400             |   |
| Ordinance #10276 - CI2215 Pueblo Food Project Trailhead Grant                                       |            |            | 20,000            |   |
| Ordinance #10286 - PS2210 Fire Department Air Compressor Grant                                      |            |            | 41,454            |   |
| Ordinance #10292 - PS2211 Fire Department Heart Safety grant                                        |            |            | 17,112            |   |
| Ordinance #10297 - CI2213 Pueblo Food Project One Colorado Grant                                    |            |            | 44,000            |   |
| Ordinance #10298 - CI2214 Pueblo Food Project CHFA Grant                                            |            |            | 20,000            |   |
| Ordinance #10299 - CI2216 Pueblo Food Project Colorado Health Foundation Grant                      |            |            | 400,000           |   |
| Ordinance #10300 - PS2209 CDOT Speed Enforcement Grant                                              |            |            | 75,000            |   |
| Ordinance #10306 - CI2209 Just Transitions Grant                                                    |            |            | 461,538           |   |
| Ordinance #10307 - CI2115 Pair to Minnequa Trail Grant 1st Admendment                               |            |            | 1,022,542         |   |
| Ordinance #10308 - PL2003 Northern Avenue Streetscape Grant 3rd Amendment                           |            |            | 693,494           |   |
| Ordinance #10316 - PS2213 JAG Grant                                                                 |            |            | 101,117           |   |
| Ordinance #10319 - Budget Additional Funds Transporation Planning Grants carryforward               |            |            | 391,593           |   |
| Ordinance #10336 - PS2214 Fire Department DOTS Pueblo Triple Aim Grant                              |            |            | 71,184            |   |
| Ordinance #10345 - PS2212 Bulletproof Vest DOJ Grant                                                |            |            | 27,200            |   |
| Ordinance #10351 - PS2216 Fire Department DOT Pueblo Triple Aim/Rawlings Foundation Grant           |            |            | 8,700             |   |
| Ordinance #10354 - Transfer Funds from Public Works to CIAN20                                       |            |            | 300,000           |   |
| Ordinance #10357 - CI2220 Police Department Bear Cat                                                |            |            | 300,000           |   |
| Ordinance #9858 - PS2017 Municipal Court 1st Appearance Grant Additional Funds                      |            |            | 18,000            |   |
| Ordinance #9953 - PS2103 CAPTA Grant Additional Funds                                               |            |            | 3,800             |   |
| Resolution #14932 - Transfer Funds from Public Works to CI2210 Public Works Asset Management System |            |            | 307,829           |   |
| ARPA Interest                                                                                       |            |            | 488,442           |   |
| Public Safety JAG Interest Income                                                                   |            |            | 197               |   |
| <b>Total Adjustments:</b>                                                                           |            |            | <b>63,131,915</b> | - |
| Debt Service (301, 302, 303)                                                                        | 3,845,301  | 3,845,301  | -                 |   |
| <b>Total Adjustments:</b>                                                                           |            |            | -                 | - |
| Economic Development Tax (413)                                                                      | 15,046,345 | 50,553,811 | <b>35,507,466</b> |   |
| Project Carryforward                                                                                |            |            | 35,507,466        |   |
| <b>Total Adjustments:</b>                                                                           |            |            | <b>35,507,466</b> | - |
| Police Safety Tax (270)                                                                             | 6,096,048  | 6,504,761  | <b>408,713</b>    |   |
| Project Carryforward                                                                                |            |            | 408,713           |   |
| <b>Total Adjustments:</b>                                                                           |            |            | <b>408,713</b>    | - |
| Elmwood Golf Course (501)                                                                           | 1,539,485  | 1,690,485  | <b>151,000</b>    |   |
| Project Carryforward                                                                                |            |            | 85,000            |   |

| <b>FUND</b>                                                                            | <b>ORIGINAL</b> | <b>ADJUSTED</b> | <b>DIFF</b>       |   |
|----------------------------------------------------------------------------------------|-----------------|-----------------|-------------------|---|
| YE Budget Adjustment - Fund Balance/Balance Expenses                                   |                 |                 | 66,000            |   |
| <b>Total Adjustments:</b>                                                              |                 |                 | <b>151,000</b>    | - |
| Walkingstick Golf Course (502)                                                         | 1,418,650       | 1,522,650       | <b>104,000</b>    |   |
| YE Budget Adjustment - Fund Balance/Balance Expenses                                   |                 |                 | 104,000           |   |
| <b>Total Adjustments:</b>                                                              |                 |                 | <b>104,000</b>    | - |
| Honor Farm (507)                                                                       | 116,898         | 135,898         | <b>19,000</b>     |   |
| YE Budget Adjustment - Fund Balance/Balance Expenses                                   |                 |                 | 19,000            |   |
| <b>Total Adjustments:</b>                                                              |                 |                 | <b>19,000</b>     | - |
| Memorial Hall (510)                                                                    | 1,319,304       | 1,419,304       | <b>100,000</b>    |   |
| YE Budget Adjustment - Fund Balance/Balance Expenses                                   |                 |                 | 100,000           |   |
| <b>Total Adjustments:</b>                                                              |                 |                 | <b>100,000</b>    | - |
| Memorial Airport (540, 541, 542, 543, 544)                                             | 2,146,021       | 5,852,189       | <b>3,706,168</b>  |   |
| Project Carryforward                                                                   |                 |                 | 2,959,981         |   |
| Ordinance #10108 - AP2201 Snow Removal Equipment Grant                                 |                 |                 | 21,355            |   |
| Ordinance #10109 - AP2201 ARPA Concessions Grant                                       |                 |                 | 10,477            |   |
| Ordinance #10189 - Additional Grant Funds AP2102 Coronavirus Relief Supplemental Grant |                 |                 | 18                |   |
| Ordinance #10241 - AP2201 Snow Removal Equipment Grant                                 |                 |                 | 345,533           |   |
| Ordinance #10242 - AP2205 Runway Rehab 8R-26L Grant                                    |                 |                 | 300,585           |   |
| Ordinance #10253 - AP2201 Snow Removal Equipment Grant                                 |                 |                 | 18,412            |   |
| Ordinance #10353 - Transfer fund from Passenger Facility Fund to AP2205                |                 |                 | 49,807            |   |
| <b>Total Adjustments:</b>                                                              |                 |                 | <b>3,706,168</b>  | - |
| Pueblo Transit (550, 551)                                                              | 6,202,678       | 11,857,841      | <b>5,655,163</b>  |   |
| Project Carryforward                                                                   |                 |                 | 4,290,664         |   |
| Transit Grants Project Carryforward                                                    |                 |                 | 1,038,525         |   |
| Ordinance #10157 - PT2201 Shop Truck Replacement - Insurance Proceeds                  |                 |                 | 18,250            |   |
| Ordinance #10199 - FTA ARP Grant Projects PT2201 PT2203 and PT2203                     |                 |                 | 307,724           |   |
| <b>Total Adjustments:</b>                                                              |                 |                 | <b>5,655,163</b>  | - |
| Parking Facilities (520)                                                               | 748,972         | 874,324         | <b>125,352</b>    |   |
| Project Carryforward                                                                   |                 |                 | 125,352           |   |
| <b>Total Adjustments:</b>                                                              |                 |                 | <b>125,352</b>    | - |
| Wastewater Enterprise (525, 526, 527)                                                  | 28,990,211      | 59,634,000      | <b>30,643,789</b> |   |
| Project Carryforward                                                                   |                 |                 | 30,643,789        |   |
| <b>Total Adjustments:</b>                                                              |                 |                 | <b>30,643,789</b> | - |
| Stormwater Utility (535, 537)                                                          | 5,751,452       | 17,265,928      | <b>11,514,476</b> |   |
| Project Carryforward                                                                   |                 |                 | 7,610,290         |   |
| Stormwater Bonds Carryforward                                                          |                 |                 | 3,755,848         |   |
| Ordinance #10349 - Transfer from Fund Balance to SWAN01                                |                 |                 | 148,339           |   |
| <b>Total Adjustments:</b>                                                              |                 |                 | <b>11,514,476</b> | - |
| Street Repair (530)                                                                    | 928,000         | 2,064,511       | <b>1,136,511</b>  |   |
| Project Carryforward                                                                   |                 |                 | 1,136,511         |   |
| <b>Total Adjustments:</b>                                                              |                 |                 | <b>1,136,511</b>  | - |
| Internal Service (601, 602, 603,604)                                                   | 19,601,096      | 20,101,096      | <b>500,000</b>    |   |
| YE Budget Adjustment - Fund Balance/Balance Expenses                                   |                 |                 | 500,000           |   |
| <b>Total Adjustments:</b>                                                              |                 |                 | <b>500,000</b>    | - |





**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 26, 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 APPROXIMATELY 34.07-ACRES FROM S-1, GOVERNMENT USE ZONE DISTRICT TO I-2, INDUSTRIAL ZONE DISTRICT

**SUMMARY:**

The applicant is requesting to rezone approximately 34.07-acres from S-1, Government Use Zone District to I-2, Industrial Zone District to allow a large truck/trailer parking area for a distribution center operation.

**PREVIOUS COUNCIL ACTION:**

None.

**BACKGROUND:**

The parcel is located southeast of the Pueblo Memorial Airport and directly east of the Target Distribution Center warehouse south of United Avenue. The site is characterized by flat sagebrush prairie. The Target Distribution Center warehouse located directly to the west of this site is a critical multistate distribution center for the Target Corporation and as such is extremely busy. The large loading and parking area lot is generally at maximum capacity forcing semi-trucks to queue along United Avenue and use undeveloped dirt parcels as short-term parking. The applicant is requesting the rezoning of the adjacent 34-acre parcel to allow approximately 500 trailer stalls for their distribution operation. The applicant would develop the site in accordance with City regulations through the commercial site plan review process. The attached site plan shows the applicant's intent to pave the parking spaces, provide for stormwater and the required landscaping. Future plans include connecting a paved access between the Target Distribution Center warehouse parcel to the west over a small arroyo to this parcel, as shown on the attached site plan.

**FINANCIAL IMPLICATIONS:**

There are no financial implications for the City.

**BOARD/COMMISSION RECOMMENDATION:**

The Planning and Zoning Commission, at their May 10, 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:**

If City Council does not approve this Ordinance the property will not be zoned in accordance with the Pueblo Municipal Code.

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.Z-23-01 Attachments

ORDINANCE NO. 10493

AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE APPROXIMATELY 34.07-ACRES FROM S-1, GOVERNMENT USE ZONE DISTRICT TO I-2, INDUSTRIAL 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 S-1, Government Use Zone District to I-2, Industrial Zone District:

LOT 69, PUEBLO MEMORIAL AIRPORT INDUSTRIAL PARK SUBDIVISION, COUNTY OF PUEBLO, STATE OF COLORADO

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 June 12, 2023.

Final adoption of Ordinance by City Council on June 26, 2023.

  
\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☒ Approved on June 29, 2023.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

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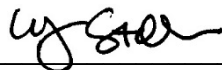
  
Mayor

**Action by City Council After Disapproval by the Mayor:**

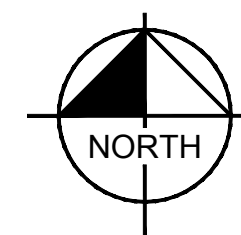
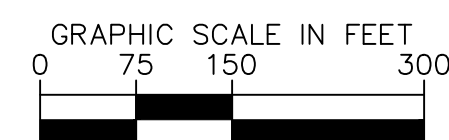
- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of \_\_\_\_\_, on \_\_\_\_\_
- ☐ Council action on \_\_\_\_\_ failed to override the Mayor's veto.

\_\_\_\_\_  
President of City Council

ATTEST

  
City Clerk





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2 N NEVADA AVE, SUITE 900  
COLORADO SPRINGS, CO 80903  
PHONE: 719-453-0180  
WWW.KIMLEY-HORN.COM

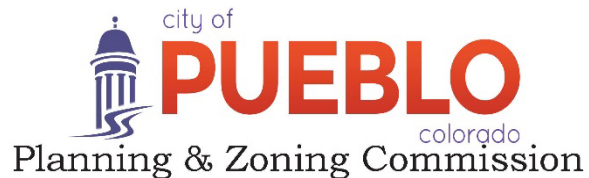
[illegible]REZONING  
EXHIBIT



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, May 10, 2023 – 3:30 p.m.

City Council Chambers, 1 City Hall Place

The meeting was called to order at 3:34 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:** Trevor Gloss, Assistant City Attorney; Scott Hobson, Acting Director for Department of Planning and Community Development; Beritt Odom, Principal Planner; Wade Broadhead, Senior Planner and Cindy Capritta, Land Use Technician.

**2. Z-23-01 Zoning:** 34900 United Avenue, Memorial Airport Industrial Park, approximately 34 acres to be rezoned from S-1 Governmental Zone District to I-2 Industrial District, generally located immediately east of the Targe Distribution Warehouse.

Senior Planner, Wade Broadhead, provided the staff report.

Public Hearing: Applicant, David Loveland was sworn in and spoke in favor of the application. No one spoke in opposition.

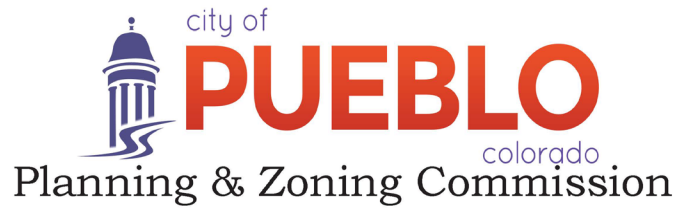
Commission Action: Bailey moved to recommend the application, seconded by Spinuzzi, with no conditions.

**Motion Passed: 6-0.**

Mike Castellucci  
Chair

Patrick Avalos  
Vice Chair

Sarah Martinez  
City Council Representative



Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

## Z-23-01

**TO:** City of Pueblo, Planning and Zoning Commission

**FROM:** Wade Broadhead, Sr. Planner

**THROUGH:** Scott Hobson, Acting Director of Planning and Community Development

**DATE:** May 10, 2023

**SUBJECT:** Rezone 30-acre parcel from S-1, Government Use District to I-2, Industrial District.

**APPLICANT:** Kyle Kragel, Kimley-Horn

**PROPERTY OWNER:** Geo Group

**LOCATION:** 34800 E. United Ave, parcel number 329001007, Lot 69, Pueblo Memorial Airport Industrial Park

**CONCURRENT REQUESTS:** None

**REQUEST:**

The Geo Group is requesting to rezone approximately 34.07 from, S-1, Government Use District to I-2, Industrial District to allow a large truck trailer parking area for a distribution center operation.

**BACKGROUND AND ANALYSIS:**

The parcel is located southeast of the Pueblo Memorial Airport and directly east of the Target distribution warehouse off of United Avenue. The site is characterized by flat sagebrush prairie. The Target distribution warehouse located directly to the west of this site is a critical multistate distribution center for the Target Corporation and as such is extremely busy. The large loading and parking area lot is generally at maximum capacity forcing semi-trucks to queue along United Avenue and use undeveloped dirt parcels as short-term parking. The applicant is requesting the rezoning of the adjacent 34-acre parcel to allow approximately 500 trailer stalls for their distribution operation. The applicant would develop the site in accordance with city regulations through the commercial site plan review process. The attached site plan shows the applicant's intent to pave the parking spaces, provide for stormwater and the required landscaping. Future plans include connecting a paved access between the Target Distribution warehouse parcel to the west over a small arroyo to this parcel, as shown on the attached site plan.

**STAFF REVIEW AND FINDINGS:** The property is characterized as “Light Industry” according to the 2022 Pueblo Regional Comprehensive Plan and the proposed zone district complies with the Light Industry category. Furthermore the 34-acre size and 550 ft of street frontage comply with the minimum lot requirements in a I-2 Zone District. The surrounding area along United Avenue is characterized by light to medium industry. The proposed rezoning complies with the Comprehensive Plan, meets zoning minimum standards, and is compatible with the surrounding neighborhood uses. The proposed development of the truck trailer parking area will need to meet the requirements of Section 17-4-49 of the Pueblo Municipal Code for building and sites in an Industrial Zone District.

**CHARACTER AND COMPATIBILITY WITH THE NEIGHBORHOOD:**

**Site Character:** 34800 E. United Avenue is currently undeveloped prairie with a city owned drainage parcel immediately to the west. The property was annexed and zoned S-1 for a planned private prison but that was never constructed.

|                                    |       |                                                                                     |
|------------------------------------|-------|-------------------------------------------------------------------------------------|
| <b>Neighborhood Compatibility:</b> | North | City I-2 and S-1, vacant undeveloped land and the airport runway.                   |
|                                    | East  | County A-1, undeveloped prairie.                                                    |
|                                    | South | County A-4 and A-2, Highway 50 Bypass and single-family homes south of the highway. |
|                                    | West  | County I-2/City S-1, City owned parcel and Target Distribution Warehouse.           |

**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 in this district are research and development, manufacturing/processing, maintenance/repair shops, warehousing and distribution. Light Industry categories should be located around the Airport Industrial Park as well as other areas, and include sites whose characteristics include more intensive industrial uses that require larger sites and have a greater impact on the surrounding area. The proposed use can be seen as an extension of a regional distribution warehouse use that is representative of the Light Industry category. The proposed I-2 Zoning conforms to the Light Industry Land Use Category and with undeveloped prairie, a highway, and a user related to this development there will be no negative impacts on the surrounding neighborhood or businesses.

**ABILITY TO COMPLY WITH THE PROPOSED ZONE DISTRICT:**

❑ **Minimum lot size and area:**

Minimum lot size in the I-2 is 10,000 square feet. The property is approximately 34 acres., which meets the minimum size requirements for the I-2 Zone District. Minimum lot width is 50’ and the property has at least 500 ft of street frontage on United Avenue.

❑ **Lot coverage:**



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The I-2 Zone District allows a maximum lot coverage of 100-percent. The proposed development will only have one small guard shack and thus will comply with the lot coverage requirements.

□ **Zone District Performance Standards:**

The I-2 Zone District Performance Standards (Sec. 17-4-5) provide the requirements relating to minimizing the impact of the development on the surrounding neighborhood and are described in detail below:

a. Sounds resulting from the industrial or business activity shall not exceed an intensity of sixty (60) decibels at the outer boundaries of the parcel.

- Sec. 11-1-607 states, among other items, that the maximum permissible noise levels as measured 25-feet from the property line of the subject property shall not exceed 55 decibels (db(A)) between 7:00am and 7:00pm and shall not exceed 50 decibels between 7:00pm and 7:00am.

b. No vibration resulting from the industrial or business activities shall be measurable at the outer boundaries of the parcel.

- The proposed parking facility does not anticipate producing vibrations.

c. No obnoxious or noxious odors resulting from the industrial or business activities shall be discernible at the outer boundaries of the parcel.

- The proposed development does not anticipate producing noxious odors.

d. Smoke emission shall not exceed Number 2 on the Ringelmann Chart.

- The parking facility must not produce observable smoke.

e. No dust, dirt or fly ash shall exceed two-tenths (.2) grain per cubic foot of flue gas at a stack temperature of five hundred degrees (500°) Fahrenheit.

- The development does not anticipate a stack or industrial facilities.

f. No noxious gases resulting from the industrial or business activity shall be discernible beyond the outer boundaries of the lot.

- The manufacturing facility must not release noxious gases discernible from the property boundary.

g. No glare or heat shall be discernible beyond the outer boundaries of the lot.

- The manufacturing facility shall not generate heat or glare.

h. Industrial wastes shall be so deposited, stored and transmitted from the parcel as to not be objectionable to adjacent properties or create a public nuisance.

- The proposed development does not anticipate the production of industrial waste.

i. All outdoor storage should be suitably fenced.

- The development shall screen any storage areas that require screening.

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## **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 proposed trailer short term storage use may be interpreted as furthering the goal of promoting redevelopment of an existing industrial site in the Light Industry Future 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

### **RECOMMENDED ACTION:**

Staff recommends the Planning and Zoning Commission make the necessary findings of fact to forward a recommendation to City Council that the rezoning be **APPROVED**.

### **REFERRAL AGENCIES AND COMMENTS:**

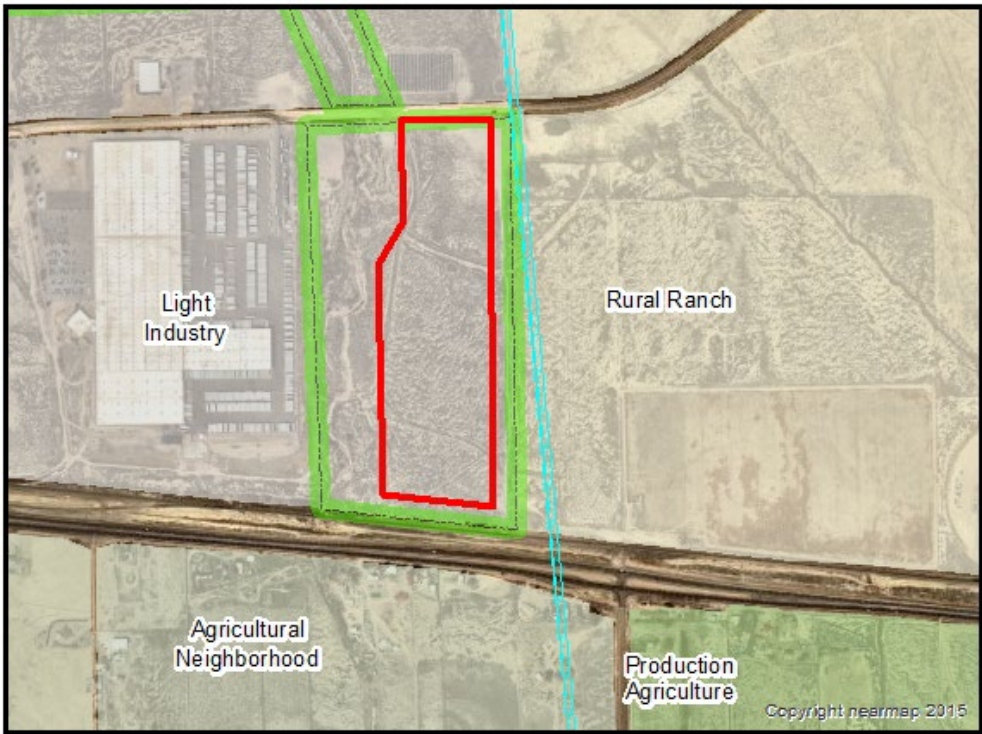
- City Public Works-No comment
- City Transportation-No comment
- City Law Department-No comment
- Pueblo Regional Building Department-No comment
- City Fire Department-No comment
- City Wastewater-No comment
- City Stormwater-No comment
- City Parks and Recreation Department-No comment
- Xcel Energy-No 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**
- F. **Application**



A. Aerial Photograph



B. Comprehensive Plan Designation





C. Pueblo Zoning



E. View of the parcel looking west down United and Target Distribution Warehouse



Public Notice Poster and site overview

F. Application and attachments

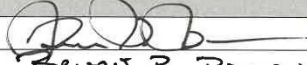
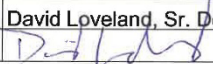
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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--------------------------------------|--|
|  <p>city of<br/><b>PUEBLO</b><br/>colorado</p>                                                                                                     |  | Planning & Community Development     |  |
| 211 East D Street   Pueblo, Colorado 81003   Tel 719-553-2259   Fax 719-553-2359   TTY 719-553-2611   www.pueblo.us                                                                                                                 |  |                                      |  |
| <b>Planning &amp; Zoning Map Amendment Application</b>                                                                                                                                                                              |  |                                      |  |
| Please type or print clearly. Illegible applications will not be accepted. Case #: _____                                                                                                                                            |  |                                      |  |
| <b>Property Owner</b>                                                                                                                                                                                                               |  |                                      |  |
| Name: Bruce P. Brown                                                                                                                                                                                                                |  |                                      |  |
| Company: GEO GROUP INC                                                                                                                                                                                                              |  |                                      |  |
| Address: 4955 Technology Way, Boca Raton, FL                                                                                                                                                                                        |  | Zip: 33431                           |  |
| Phone: (561) 999-5825                                                                                                                                                                                                               |  | Email: btbrown@gco.com               |  |
| <b>Applicant</b>                                                                                                                                                                                                                    |  |                                      |  |
| Name: David Loveland                                                                                                                                                                                                                |  |                                      |  |
| Company: Target Corporation                                                                                                                                                                                                         |  |                                      |  |
| Address: 1000 Nicollete Mall, TPN-12  Minneapolis, MN                                                                                                                                                                               |  | Zip: 55403                           |  |
| Phone: (605) 376-9535                                                                                                                                                                                                               |  | Email: david.loveland@target.com     |  |
| <b>Person of Firm Representing Owner or Applicant</b>                                                                                                                                                                               |  |                                      |  |
| Name: Mitchell Hess, P.E.                                                                                                                                                                                                           |  |                                      |  |
| Company: Kimley-Horn and Associates, Inc                                                                                                                                                                                            |  |                                      |  |
| Address: 2 N Nevada Ave., Suite 900, Colorado Springs, CO                                                                                                                                                                           |  | Zip: 80903                           |  |
| Phone: (719) 284-7281                                                                                                                                                                                                               |  | Email: mitchell.hess@kimley-horn.com |  |
| <i>The applicant will be the primary contact unless otherwise noted.</i>                                                                                                                                                            |  |                                      |  |
| <b>Project Location:</b> Project is located to the east of the existing Target Distribution Center at 34800 E United Ave, Pueblo, CO 81001. The project parcel is PID #329001007<br><small>(address or general description)</small> |  |                                      |  |
| Legal Description: LOT 69 PUEBLO MEMORIAL AIRPORT INDUSTRIAL PARK SUB FORMERLY 03-000-00-051                                                                                                                                        |  |                                      |  |
| Subdivision: 7006 - COM-Airport IP                                                                                                                                                                                                  |  | Acreage: ±34.07                      |  |
| <b>Existing Zone District:</b> S-1                                                                                                                                                                                                  |  | <b>Proposed Zone District:</b> I-2   |  |
| <b>Purpose of this Application:</b>                                                                                                                                                                                                 |  |                                      |  |
| <input checked="" type="checkbox"/> To permit development of the property not allowed under the existing zone district.                                                                                                             |  |                                      |  |
| <input type="checkbox"/> To provide proper zone district in conjunction with the subdivision plan for the area.                                                                                                                     |  |                                      |  |
| <input type="checkbox"/> In conjunction with the Annexation petition to annex the property in a use different than the existing Pueblo County Zoning.                                                                               |  |                                      |  |
| <input type="checkbox"/> Other (specify): _____                                                                                                                                                                                     |  |                                      |  |

(Continue Next Page)

07/2020



(Continued from previous page)

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Statement of Facts:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                     |
| Justifying the zone change request. Be specific; use additional sheets if necessary.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                     |
| The purpose of the proposed improvements are to support the trailer parking demand needs for the existing Target Distribution Center at 34800 E United Ave, Pueblo, CO 81001. Parcel is currently zoned S-1 for a previously proposed jail that was never constructed. Surrounding parcels in this area are zoned I-2 (County). The proposed rezoning to I-2 would conform to it's surrounding uses in the area.                                                                                                                                                                                                                                                                          |                                                                                                                                                                     |
| Description of area surrounding proposed development:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                     |
| City owned parcel 329001017 to the East, South and West currently zoned S-1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                     |
| E United Ave County ROW / CO Road 3 DOT ROW to the North and I-2 zoned PID 329001008 on the opposite side of the ROW                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                     |
| 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.                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                     |
| This project proposes a permanent off-site trailer parking lot to be located adjacent and to the east of the existing Target Distribution Center at 34800 E United Ave, Pueblo, CO 81001. This parking lot would provide roughly 500 trailer stalls for overflow from the distribution site. Target currently owns parcels west of the distribution site along Highway 50 at 27th Lane for existing offsite trailer parking operations. Therefore, the trailers entering and exiting the US-50 lots would instead use the permanent lot proposed. There is no anticipated increase in operations with this proposed off-site trailer parking lot, see Traffic Study Letter for more info. |                                                                                                                                                                     |
| <input checked="" type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 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: September 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                     |
| Estimated date for completion of project: December 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                     |
| A statement reasonably indicating the applicant's economic responsibility and capability of accomplishing the development for which a zoning amendment is requested.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                     |
| Target is a Fortune 100 company, with revenues above \$100B. Target intends to complete the improvements and rezoning as specified in the application, and will work with the governing jurisdictions to ensure compliance and successful completion of the improvements.                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                     |
| <input checked="" type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 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 they understand and agree to the following terms:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                     |
| <ol style="list-style-type: none"> <li>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.</li> <li>2. There are no known hazards or vicious animals present on the subject property.</li> <li>3. All information contained in this application, is true and accurate to the best of my knowledge.</li> <li>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.</li> </ol>             |                                                                                                                                                                     |
| Property Owner                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                     |
| Print Name:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                  |
| Signature:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Bruce P. Brown -VP Real Estate                                                                                                                                      |
| Applicant, if different from Property Owner                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Date: 3/2/2023                                                                                                                                                      |
| Print Name:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | David Loveland, Sr. Development Manager, Target Corporation                                                                                                         |
| Signature:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  Date: 3/1/23                                                                    |

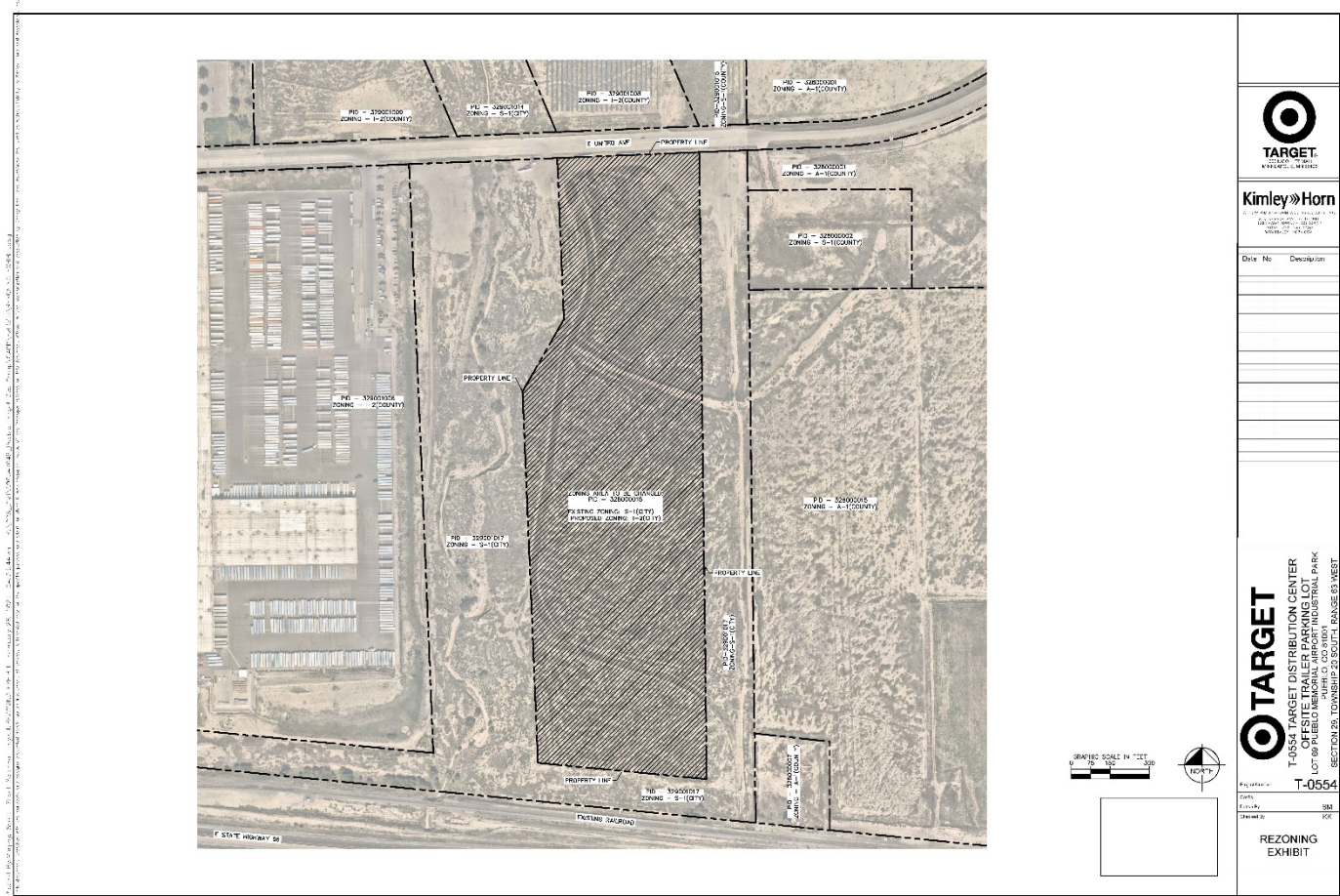
|                 |                                             |                                                                                                                  |
|-----------------|---------------------------------------------|------------------------------------------------------------------------------------------------------------------|
| Office Use Only | Zoning Compliance (Completed by City Staff) |                                                                                                                  |
|                 | Application received by:                    | Date:                                                                                                            |
|                 | Application checked for completeness by:    | Date:                                                                                                            |
|                 | Case Manager:                               | Fee Paid:                                                                                                        |
|                 | Hearing date:                               | <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Approved w/conditions |

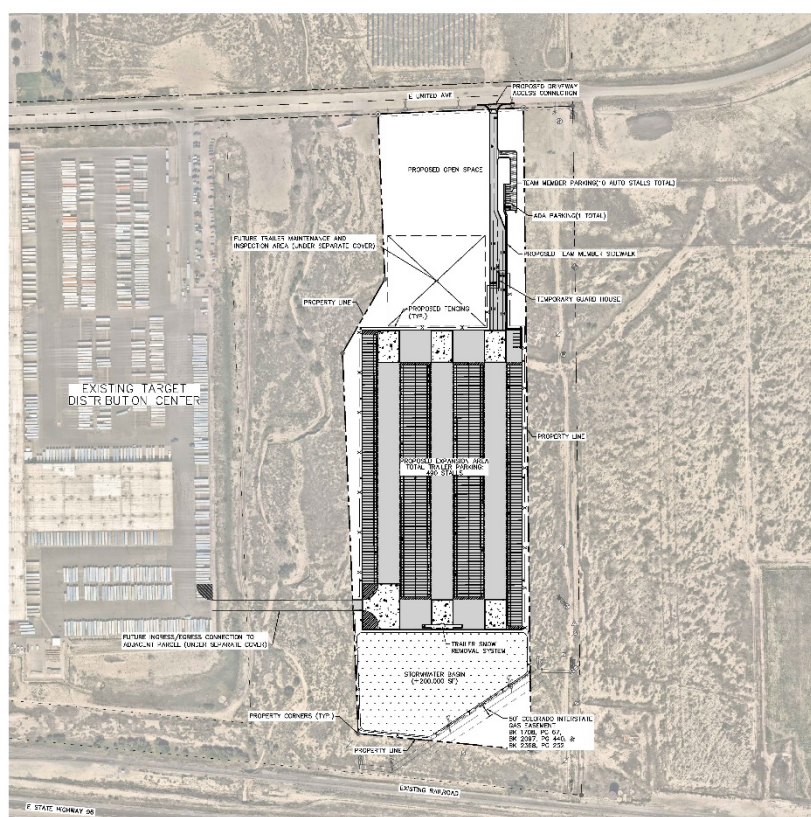
**PROJECT NARRATIVE – REZONING APPLICATION**

This project proposes a permanent off-site trailer parking lot to be located adjacent and to the east of the existing Target Distribution Center at 34800 E United Ave, Pueblo, CO 81001, more specifically APN#329001007. This parking lot would provide roughly  $\pm 500$  trailer stalls for overflow from the distribution site. Target currently owns parcels west of the distribution site along Highway 50 at 27th Lane for existing offsite trailer parking operations. The trailers entering and exiting the US-50 lots would instead use the permanent lot proposed. Therefore, there is no anticipated increase in operations with this proposed off-site trailer parking lot, see Traffic Study Letter included with this application for more information.

The current zoning of the parcel where the improvements are proposed is currently zoned S-1, therefore a rezone to I-2 would be necessary for the proposed use of a trailer parking lot to be permitted. It is our understanding based on a pre-application meeting with the City that the current zoning for the property was for a previously proposed jail that was never constructed. The surrounding parcels in this area are zoned I-2 (County) and it is our opinion that the proposed rezone to I-2 would better conform to the surrounding uses in this area.







LEGEND:

- 
- HYDROSEAL HEAVY DUTY ASPHALT
- PROPOFLEX LIGHT DUTY ASPHALT
- PROPOFLEX VEHICULAR CONCRETE/CONCRETE TERRAZZO
- PROPOFLEX STONE OR LUMEN BASTO
- PROPERTY LINE
- LIMIT

| PARKING COUNT   |          |          |            |
|-----------------|----------|----------|------------|
|                 | REQUIRED | PROPOSED | % OF TOTAL |
| STANDARD STALLS | 3        | 9        | 1.78%      |
| ADA STALLS      | 1(VAN)   | 1(VAN)   | 0.19%      |
| TRAILER STALLS  | N/A      | 490      | 97.03%     |
| TRACTOR STALLS  | N/A      | 5        | 1.00%      |
| TOTAL           | N/A      | 505      | 100%       |

GRAPHIC SCALE IN FEET  
0 75 150 300



T-0554 TARGET DISTRIBUTION CENTER  
OFFSITE TRAILER PARKING LOT  
LOT 89 PUEBLO MEMORIAL AIRPORT INDUSTRIAL PARK  
PUEBLO, CO 81001  
SECTION 26, TOWNSHIP 20 SOUTH, RANGE 63 WEST

T-0554

REZONING  
SITE  
PLAN

April 21, 2023

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **David Loveland** for approval of the following application:

**Z-23-01 Rezoning:** 34900 United Ave, approximately 34 acres to be rezoned from S-1, Governmental Use District to I-2, Industrial District. Generally located directly east of the Target Distribution Center on United Avenue.

**The Planning and Zoning Commission meeting will be held on May 10, 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](http://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) 553-2380

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Scott Hobson, Director  
Planning & Community Development  
**Wade Broadhead**, Senior Planner  
(719) 553-2380

CASE NUMBER: Z-23-01

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 Lot 69 Pueblo Memorial Airport Industrial Park Sub Formerly 03-000-00-051 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.

April 21, 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 2113 E. Evans, upon which action is pending as set forth in the Code of Ordinances, Section 17-6-2.

April 25, 2023

(Date)

PUEBLO PLANNING & ZONING COMMISSION

By Cindy Caputo

| Owner                                         | OwnerStree             | OwnerCity  | Owr |
|-----------------------------------------------|------------------------|------------|-----|
| COLORADO BOARD LAND COMMISSION + CENTENNIAL I | 1313 SHERMAN ST        | DENVER     | CO  |
| FESLER EARL M                                 | 2076 27TH LN           | PUEBLO     | CO  |
| GEO GROUP INC                                 | 621 NW 53RD ST STE 700 | BOCA RATON | FL  |
| PRUTCH CARL D                                 | 9 CASITA CT            | PUEBLO     | CO  |
| CITY OF PUEBLO A MUNICIPAL CORPORAT           | PO BOX 1427            | PUEBLO     | CO  |
| THATCHER LAND AND CATTLE CO LLC               | PO BOX 25              | BOONE      | CO  |

**OwnerZip**

80203-2236

81006-9701

33487-8242

81005-2972

81002-1427

81025-0025





**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 26, 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 APPROXIMATELY 25.47-ACRES FROM PUEBLO COUNTY A-1 TO CITY OF PUEBLO S-1, GOVERNMENT USE ZONE DISTRICT AND APPROXIMATELY 44.44-ACRES FROM PUEBLO COUNTY A-1 AND R-6 TO CITY OF PUEBLO A-1, AGRICULTURAL ONE ZONE DISTRICT

**SUMMARY:**

The applicant is requesting to rezone the Pueblo County Detention Center Annexation property, annexed into the city on May 8, 2023 through Ordinance No. 10453. Approximately 25.47-acres are being requested to be rezoned from Pueblo County, A-1 to City of Pueblo, S-1, Government Use District and approximately 44.44-acres from Pueblo County, A-1 and R-6 to City of Pueblo A-1, Agricultural One Zone District.

**PREVIOUS COUNCIL ACTION:**

None.

**BACKGROUND:**

The proposed rezoning includes the entire Pueblo County Detention Center Annexation site, 69.91-acres. Pueblo County is proposing to rezone the southwestern portion of the annexation area, approximately 25.47-acres, from Pueblo County A-1 to City of Pueblo, S-1, Government Use District to facilitate the construction of the Pueblo County Detention Center. The remaining approximately 44.44-acres is being proposed to be rezoned into an A-1, Agricultural One district, as an interim zoning classification until the time of development. The A-1, interim zoning following annexation, is allowed by Section 17-1-3, (e), of the Pueblo Municipal Code. According to the code, the annexation agreement may allow an A-1, Zone District for a specified period of time and no building permits may be issued while zoned A-1. The proposed annexation

agreement allows for the A-1 zone district to continue for not more than 120 months (10 years) and prohibits building permits from being issued until the property is rezoned to a zone district that is consistent with the 2022 Pueblo Comprehensive Plan. Pueblo County has concurrently submitted a subdivision application that includes a lot for the Pueblo County Detention Center, the portion proposed to be zoned S-1, Government Use District, and the remaining portion of the annexation area, which is proposed to be zoned A-1, is included in the subdivision Pueblo County will be applying for Planning and Zoning Commission Development Site Plan Review for the Detention Center as required by Pueblo Municipal Code, Section, 17-4-51, (a), (27), b.

#### **FINANCIAL IMPLICATIONS:**

There are no financial implications for the City.

#### **BOARD/COMMISSION RECOMMENDATION:**

The Planning and Zoning Commission, at their May 10, 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:**

If City Council does not approve this Ordinance the property will not be zoned in accordance with the Pueblo Municipal Code.

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. Z-23-02 Attachments



ORDINANCE NO. 10494

AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE APPROXIMATELY 25.47-ACRES FROM PUEBLO COUNTY A-1 TO CITY OF PUEBLO S-1, GOVERNMENT USE ZONE DISTRICT AND APPROXIMATELY 44.44-ACRES FROM PUEBLO COUNTY A-1 AND R-6 TO CITY OF PUEBLO A-1, AGRICULTURAL ONE 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 Pueblo County A-1 to City of Pueblo S-1, Government Use Zone District and Pueblo County A-1 and R-6 to City of Pueblo A-1, Agricultural One Zone District:

**1 - DETENTION CENTER  
REZONE A-1 (COUNTY) TO S-1 (CITY)**

A PORTION OF THE SOUTHEAST QUARTER OF SECTION TWENTY-ONE (21), TOWNSHIP TWENTY (20) SOUTH, RANGE SIXTY-FIVE (65) WEST OF THE SIXTH PRINCIPAL MERIDIAN (6TH P.M.) BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 21, THENCE, N 89° 24' 14" E, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 121.12 FEET TO THE SOUTHERLY LINE OF MEDAL OF HONOR BLVD; THENCE, S 59° 54' 13" E, ALONG SAID SOUTHERLY LINE, A DISTANCE OF 1153.83 FEET TO THE BEGINNING OF A CURVE TURNING TO THE LEFT; THENCE CONTINUING ALONG SAID SOUTHERLY LINE ON SAID CURVE, A DISTANCE OF 39.27 FEET, THROUGH AN ANGLE OF 01° 12' 07", HAVING A RADIUS OF 1872.00 FEET, AND WHOSE LONG CHORD BEARS S 60° 30' 16" E, A DISTANCE OF 39.27 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF A PUBLIC RIGHT OF WAY. THENCE, S 27° 58' 34" W, ALONG SAID WEST LINE, A DISTANCE OF 250.99 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; THENCE CONTINUING ALONG SAID WEST LINE ON SAID CURVE, A DISTANCE OF 188.18 FEET, TURNING THROUGH AN ANGLE OF 28° 22' 23", HAVING A RADIUS OF 380.00 FEET, AND WHOSE LONG CHORD BEARS S 13° 47' 23" W, A DISTANCE OF 186.26 FEET. THENCE, S 00° 23' 49" E, CONTINUING ALONG SAID WEST LINE, A DISTANCE OF 309.93 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH HALF OF SAID SOUTHEAST QUARTER; THENCE, S 89° 20' 51" W, ALONG SAID SOUTH LINE, A DISTANCE OF 979.73 FEET TO A POINT ON THE WEST LINE OF SAID SOUTHEAST QUARTER; THENCE N 00° 36' 13" W, ALONG SAID WEST LINE, A DISTANCE OF 1320.37 FEET TO THE POINT OF BEGINNING.

CONTAINING 25.467 ACRES, MORE OR LESS.

**2 - COMANCHE SOUTH  
REZONE A-1 AND R-6 (COUNTY) TO A-1 (CITY)  
HOLDING ZONE (UNDEVELOPABLE)**

A PORTION OF THE SOUTHEAST QUARTER OF SECTION TWENTY-ONE (21), TOWNSHIP TWENTY (20) SOUTH, RANGE SIXTY-FIVE (65) WEST OF THE SIXTH PRINCIPAL MERIDIAN (6TH P.M.)

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 21, THENCE S 89° 24' 14" W, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 300.00 FEET TO THE WEST LINE OF COLORADO STATE HIGHWAY NO. 45; THENCE S01°36'45" W, ALONG SAID WEST LINE, A DISTANCE OF 1319.21 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH HALF OF SAID SOUTHEAST QUARTER AND THE POINT OF BEGINNING; THENCE, S 89° 21' 12" W, ALONG SAID SOUTH LINE, A DISTANCE OF 964.40 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SOUTHEAST QUARTER; THENCE, S 89° 20' 51" W, ALONG SAID SOUTH LINE, A DISTANCE OF 278.54 FEET TO A POINT ON THE EAST LINE OF A PUBLIC RIGHT OF WAY; THENCE, N 00° 23' 49" W, ALONG SAID EAST LINE FOR A DISTANCE OF 309.66 FEET TO THE BEGINNING OF A CURVE TURNING TO THE RIGHT, THENCE CONTINUING ALONG SAID EAST LINE ON SAID CURVE, A DISTANCE OF 158.47 FEET, THROUGH AN ANGLE OF 28° 22' 23", HAVING A RADIUS OF 320.00 FEET, AND WHOSE LONG CHORD BEARS N 13° 47' 23" E, A DISTANCE OF 156.85 FEET. THENCE, N 27° 58' 34" E, CONTINUING ALONG SAID EAST LINE, A DISTANCE OF 250.99 FEET TO THE SOUTH LINE OF MEDAL OF HONOR BLVD. AND THE BEGINNING OF A NON-TANGENTIAL CURVE TURNING TO THE LEFT, THENCE ALONG SAID SOUTH LINE ON SAID CURVE, A DISTANCE OF 884.05 FEET, THROUGH AN ANGLE OF 27° 03' 29", HAVING A RADIUS OF 1872.00 FEET, AND WHOSE LONG CHORD BEARS S 76° 28' 16" E FOR A DISTANCE OF 875.86 FEET. THENCE, N 90° 00' 00" E, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 251.41 FEET TO THE WEST LINE OF COLORADO STATE HIGHWAY NO. 45; THENCE, S 01° 36' 45" W, ALONG SAID WEST LINE, A DISTANCE OF 464.87 FEET TO THE POINT OF BEGINNING.

CONTAINING 15.047 ACRES, MORE OR LESS.

**3 - COMANCHE NORTH**  
**REZONE A-1 AND R-6 (COUNTY) TO A-1 (CITY)**  
**HOLDING ZONE (UNDEVELOPABLE)**

A PORTION OF THE SOUTHEAST QUARTER OF SECTION TWENTY-ONE (21), TOWNSHIP TWENTY (20) SOUTH, RANGE SIXTY-FIVE (65) WEST OF THE SIXTH PRINCIPAL MERIDIAN (6TH P.M.)

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 21, THENCE; S 89° 24' 14" W, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 300.00 FEET TO THE WEST LINE OF COLORADO STATE HIGHWAY NO. 45 AND THE POINT OF BEGINNING; THENCE, S 01° 36' 45" W, ALONG SAID WEST LINE, A DISTANCE OF 704.28 FEET TO A POINT ON THE NORTH LINE OF MEDAL OF HONOR BLVD.;

THENCE, N 90° 00' 00" W, ALONG SAID NORTH LINE, A DISTANCE OF 255.63 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT, THENCE CONTINUING ALONG SAID NORTH LINE ON SAID CURVE, A DISTANCE OF 904.54 FEET, THROUGH AN ANGLE OF 30° 05' 47", HAVING A RADIUS OF 1722.00 FEET, AND WHOSE LONG CHORD BEARS N 74° 57' 06" W FOR A DISTANCE OF 894.17 FEET. THENCE, N 59° 54' 13" W, CONTINUING ALONG SAID NORTH LINE, A DISTANCE OF 901.13 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHEAST QUARTER; THENCE N 89° 24' 14" E, ALONG SAID NORTH LINE, A DISTANCE OF 1918.70 FEET TO THE POINT OF BEGINNING.

CONTAINING 20.719 ACRES, MORE OR LESS.

**4- MEDAL OF HONOR BLVD.. & PUBLIC ROAD RIGHT OF WAY**  
**REZONE A-1 AND R-6 (COUNTY) TO A-1 (CITY)**

ALL OF THAT PORTION OF MEDAL OF HONOR BLVD AND PUBLIC RIGHT OF WAY LYING IN THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION TWENTY-ONE (21), TOWNSHIP TWENTY (20) SOUTH, RANGE SIXTY-FIVE (65) WEST OF THE SIXTH PRINCIPAL MERIDIAN (6TH P.M.), MORE PARTICULARLY DESCRIBED AS FOLLOWS.

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 21, THENCE, N 89° 24' 14" E, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 121.12 FEET TO THE SOUTHERLY LINE OF MEDAL OF HONOR BLVD. AND THE POINT OF BEGINNING. FROM THE POINT OF BEGINNING, THENCE, N 89° 24' 14" E, CONTINUING ALONG SAID NORTH LINE A DISTANCE OF 293.87 FEET TO A POINT ON THE NORTHERLY LINE OF MEDAL OF HONOR BLVD.; THENCE, S 59° 54' 13" E, ALONG SAID NORTHERLY LINE, A DISTANCE OF 901.13 FEET TO THE BEGINNING OF A CURVE TURNING TO THE LEFT;

THENCE CONTINUING ALONG SAID NORTHERLY LINE, ON SAID CURVE, A DISTANCE OF 904.54 FEET, THROUGH AN ANGLE OF 30° 05' 47", HAVING A RADIUS OF 1722.00 FEET, AND WHOSE LONG CHORD BEARS S 74° 57' 06" E FOR A DISTANCE OF 894.17 FEET.

THENCE, N 90° 00' 00" E, CONTINUING ALONG SAID NORTHERLY LINE, A DISTANCE OF 255.63 FEET TO A POINT ON THE WEST LINE OF COLORADO STATE HIGHWAY NO. 45;

THENCE, S 01° 36' 45" W, ALONG SAID WEST LINE, A DISTANCE OF 150.06 FEET TO A POINT ON THE SOUTH LINE OF MEDAL OF HONOR BLVD.; THENCE, S 90° 00' 00" W, ALONG SAID SOUTH LINE, A DISTANCE OF 251.41 FEET TO THE BEGINNING OF A CURVE TURNING TO THE RIGHT,

THENCE CONTINUING ALONG SAID SOUTH LINE, ON SAID CURVE, A DISTANCE OF 884.05, THROUGH AN ANGLE OF 27° 03' 29", HAVING A RADIUS OF 1872.00 FEET, AND WHOSE LONG CHORD BEARS N 76° 28' 16" W FOR A DISTANCE OF 875.86 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF A PUBLIC RIGHT OF WAY.

THENCE, S 27° 58' 34" W, ALONG SAID EAST LINE, A DISTANCE OF 250.99 FEET TO THE BEGINNING OF A CURVE TURNING TO THE LEFT, THENCE ALONG SAID EAST LINE ON SAID CURVE, A DISTANCE OF 158.47 FEET, THROUGH AN ANGLE OF 28° 22' 23", HAVING A RADIUS OF 320.00 FEET, AND WHOSE LONG CHORD BEARS S 13° 47' 23" W FOR A DISTANCE OF 156.85 FEET; THENCE, S 00° 23' 49" E, CONTINUING ALONG SAID EAST LINE, A DISTANCE OF 309.66 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER; THENCE, S 89° 20' 51" W, ALONG SAID SOUTH LINE, A DISTANCE OF 60.00 FEET TO A POINT ON THE WEST LINE OF SAID PUBLIC RIGHT OF WAY; THENCE, N 00° 23' 49" W, ALONG SAID WEST LINE, A DISTANCE OF 309.93 FEET TO THE BEGINNING OF A CURVE TURNING TO THE RIGHT; THENCE CONTINUING ALONG SAID WEST LINE, ON SAID CURVE, A DISTANCE OF 188.18 FEET, THROUGH AN ANGLE OF 28° 22' 23", HAVING A RADIUS OF 380.00 FEET, AND WHOSE LONG CHORD BEARS N 13° 47' 23" E FOR A DISTANCE OF 186.26 FEET. THENCE, N 27° 58' 34" E FOR A DISTANCE OF 250.99 FEET TO A POINT ON THE SOUTHERLY LINE OF MEDAL OF HONOR BLVD. AND THE BEGINNING OF A NON-TANGENTIAL CURVE TURNING TO THE RIGHT; THENCE ALONG SAID SOUTHERLY LINE, ON SAID CURVE, A DISTANCE OF 39.27 FEET, THROUGH AN ANGLE OF 01° 12' 07", HAVING A RADIUS OF 1872.00 FEET, AND WHOSE LONG CHORD BEARS N 60° 30' 16" W FOR A DISTANCE OF 39.27 FEET; THENCE N 59° 54' 13" W, CONTINUING ALONG SAID SOUTHERLY LINE, A DISTANCE OF 1153.83 FEET TO THE POINT OF BEGINNING.

CONTAINING 8.673 ACRES, MORE OR LESS.

**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 June 12, 2023.

Final adoption of Ordinance by City Council on June 26, 2023.

  
\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☒ Approved on June 29, 2023.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

  
\_\_\_\_\_  
Mayor

**Action by City Council After Disapproval by the Mayor:**

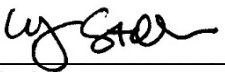
☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of \_\_\_\_\_, on \_\_\_\_\_

☐ Council action on \_\_\_\_\_ failed to override the Mayor's veto.

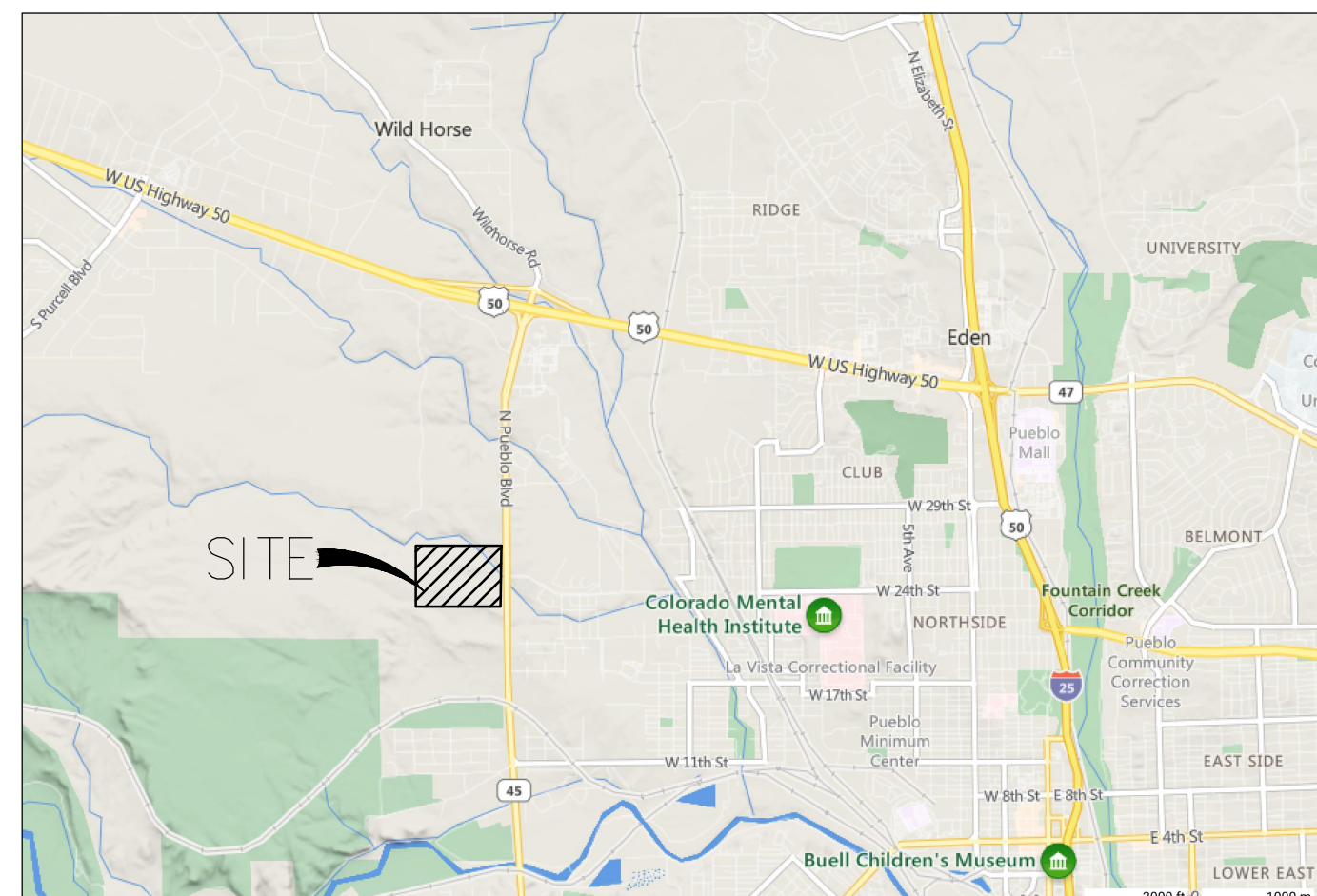
\_\_\_\_\_  
President of City Council

ATTEST

  
\_\_\_\_\_  
City Clerk



LOCATED IN THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 20 SOUTH, RANGE 65 WEST, OF THE  
SIXTH PRINCIPAL MERIDIAN, COUNTY OF PUEBLO, STATE OF COLORADO



VICINITY MAP  
1"=3000'

1. BASIS OF BEARINGS: BEARINGS USED HEREON ARE BASED ON THE EAST LINE OF THE SOUTHEAST 1/4 OF SECTION 21, BEING S00°33'34"E, AS MONUMENTED AT THE NORTH BY THE EAST 1/4 CORNER OF SECTION 21 WITH A FOUND 3.125" BRASS CAP STAMPED CADASTRAL SURVEY BLM AND AT THE SOUTH BY THE SOUTHEAST CORNER OF SECTION 21 WITH A FOUND 3.125" BRASS CAP STAMPED CADASTRAL SURVEY BLM.

ALL OF THAT PORTION OF MEDAL OF HONOR BLVD AND PUBLIC RIGHT OF WAY LYING IN THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION TWENTY-ONE (21), TOWNSHIP TWENTY (20) SOUTH, RANGE SIXTY-FIVE (65) WEST OF THE SIXTH PRINCIPAL MERIDIAN (6TH P.M.), MORE PARTICULARLY DESCRIBED AS FOLLOWS, COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 21, THENCE,  
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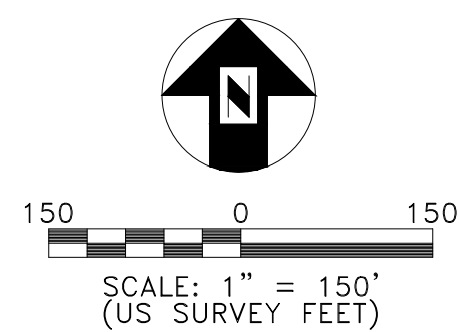
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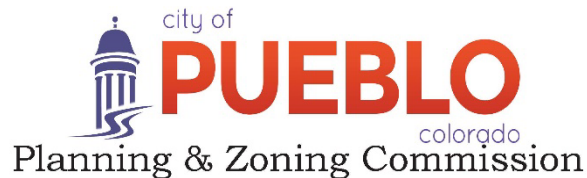
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|-----------------------------------------------------------|--|--|--|--|--|--|--|--|--|--------------------------|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| ALL SEALS FOR THIS DOCUMENT ARE APPLIED TO THE COVER PAGE |  |  |  |  |  |  |  |  |  | SHRT NO: 1 OF 1          |  | <br>990 South Broadway Suite 220<br>Denver, CO 80209<br>Phone: 303-297-2876<br>Fax: 303-297-2693 |  |
|                                                           |  |  |  |  |  |  |  |  |  | SCALE: 1"=150'           |  |                                                                                                                                                                                       |  |
|                                                           |  |  |  |  |  |  |  |  |  | DWN BY: DATE: 3-2-2023   |  | JOB NO: 21-100-147                                                                                                                                                                    |  |
|                                                           |  |  |  |  |  |  |  |  |  | CHK BY: TJB              |  | ZONING EXHIBIT                                                                                                                                                                        |  |
|                                                           |  |  |  |  |  |  |  |  |  | PRGJ MGR: M.JUL          |  |                                                                                                                                                                                       |  |
| 01 CITY COMMENTS                                          |  |  |  |  |  |  |  |  |  | TJB 5/29/23 M.L. 3/29/23 |  | 3-2-2023                                                                                                                                                                              |  |
| NO. REVISION-DESCRIPTION                                  |  |  |  |  |  |  |  |  |  | BY DATE CHKD APPD        |  | CLIENT APP:                                                                                                                                                                           |  |
|                                                           |  |  |  |  |  |  |  |  |  |                          |  | COUNTY OF PUEBLO,<br>STATE OF COLORADO                                                                                                                                                |  |



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, May 10, 2023 – 3:30 p.m.

City Council Chambers, 1 City Hall Place

The meeting was called to order at 3:34 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:** Trevor Gloss, Assistant City Attorney; Scott Hobson, Acting Director for Department of Planning and Community Development; Beritt Odom, Principal Planner; Wade Broadhead, Senior Planner and Cindy Capritta, Land Use Technician.

3. Z-23-02 Zoning: Pueblo County Detention Center Annexation Zoning, approximately 25.47 acres to be rezoned from Pueblo County, A-1 to City of Pueblo, S-1, Government Use District and approximately 44.44 acres from Pueblo County, A-1 and R-6 to City of Pueblo A-1, Agricultural One. Generally located west of the intersection of West 24th Street and Pueblo Boulevard. Principal Planner, Beritt Odom provided Staff Report.

Public Hearing: Applicant, Attorney Gary Raso spoke in favor of the application. No one spoke in opposition.

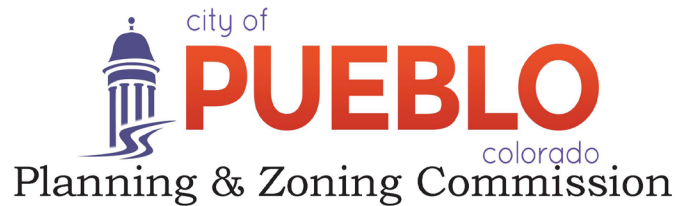
Commission Action: Bailey moved to recommend the application, seconded by Spinuzzi with no conditions.

**Motion Passed: 6-0.**

Mike Castellucci  
Chair

Patrick Avalos  
Vice Chair

Sarah Martinez  
City Council Representative



Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

## Z-23-02

**TO:** City of Pueblo, Planning and Zoning Commission

**FROM:** Beritt Odom, Principal Planner

**THROUGH:** Scott Hobson, Acting Director of Planning and Community Development

**DATE:** May 10, 2023

**SUBJECT:** Rezone 25.47 acres from Pueblo County A-1 to City of Pueblo, S-1, Government Use District and 44.44 acres from Pueblo County A-1 and R-6 to City of Pueblo A-1, Agricultural One.

**APPLICANT:** Pueblo County

**PROPERTY OWNER:** Pueblo County

**LOCATION:** Pueblo County Detention Center Annexation, 69.91 acres generally located west of the intersection of West 24<sup>th</sup> Street and Pueblo Blvd.

**RELATED CASES:** A-23-01, Pueblo County Detention Center Annexation  
S-23-05, Medal of Honor Subdivision

**REQUEST:**

Pueblo County is requesting to zone the Pueblo County Detention Center Annexation. Approximately 25.47 is requested to be rezoned from Pueblo County, A-1 to City of Pueblo, S-1, Government Use District and approximately 44.44 acres from Pueblo County, A-1 and R-6 to City of Pueblo A-1, Agricultural One.

**BACKGROUND AND ANALYSIS:**

The proposed rezoning is for the entire Pueblo County Detention Center Annexation site, 69.91 acres, which is scheduled for City Council review and approval on May 8, 2023. Pueblo County is proposing to rezone the southwestern portion of the annexation area, approximately 25.47 acres, from Pueblo County A-1 to City of Pueblo, S-1, Government Use District to facilitate the construction of the Pueblo County Detention Center. Pueblo County is proposing to rezone the remaining portion of the annexation site, approximately 44.44 acres, to A-1, Agricultural One, as an interim zoning classification until the time of development. The A-1, interim zoning following annexation, is allowed by Section 17-1-3, (e), of the Pueblo Municipal Code. According to the code, the annexation agreement may allow an A-1, Zone District for a specified period of time and no building permits may be issued while zoned A-1. The proposed annexation agreement allows for the A-1 zone district to continue for not more than 120 months (10 years) and prohibits building permits from being issued until the property is rezoned to a zone district that is consistent with the Pueblo Comprehensive Plan.



Pueblo County submitted an application for subdivision on April 10, 2023. The subdivision includes a lot for the Pueblo County Detention Center, the portion proposed to be zoned S-1, Government Use District, the remaining portion of the annexation area, which is proposed to be zoned A-1, is included in the subdivision and will be subdivided as non-buildable parcels as agreed upon in the annexation agreement. Pueblo County will be submitting an application for Planning and Zoning Commission Development Site Plan Review for the Detention Center as required by Pueblo Municipal Code, Section, 17-4-51, (a), (27), b.

**STAFF REVIEW AND FINDINGS:**

The S-1 Zone District does not have minimum lot area or width standards, the proposed 25.47-acre area to be rezoned to S-1 is acceptable. The remaining 44.44 acres will be zoned interim A-1, Agricultural One. This area must be rezoned into a classification corresponding to the Comprehensive Plan prior to re-subdivision and development.

---

**LAND USE AND PLANNING COMMENTS**  
**CHARACTER AND COMPATIBILITY**

|                                    |                                    |                                                                                                                                           |  |
|------------------------------------|------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>Site Character:</b>             | The site is currently undeveloped. |                                                                                                                                           |  |
| <b>Neighborhood Compatibility:</b> | North                              | S-1, Government Use District, City of Pueblo Honor Farm Open Space.<br>Pueblo County B-4 and R-6, unimproved land and commercial auction. |  |
|                                    | East                               | City B-3, Highway and Arterial Business District, undeveloped.                                                                            |  |
|                                    | South                              | City S-1, Honor Farm property within a City conservation easement.                                                                        |  |
|                                    | West                               | City S-1, Honor Farm property within a City conservation easement.                                                                        |  |

**COMPREHENSIVE PLAN:** The Pueblo Regional Comprehensive Plan, 2022, designates the proposed annexation property as Institutional Mixed Use and Commercial Mixed Use.

According to the Comprehensive Plan, Institutional Mixed Use properties are predominately hospitals, government campuses, educational institutions, and other public and semi-public uses. The uses and intensity vary by location, based on the size and scale of the facility. The Institutional Mixed Use areas are intended to accomodate public and semi-public facilities with a regional service area that may contain a mix of complementary uses. Supporting land uses could potentially include medical offices, lodging, restaurants, and dormitories. The Pueblo County Detention center is a public facility and is therefore consistent with the Institution Mixed Use designation.

The eastern portion of the annexation site is designated as Commercial Mixed Use, which allows for large-format retail, personal services, office and entertainment uses. According to the 2022 Comprehensive Plan, this is an auto oriented corridor that should prioritize the safety and comfort of all road users

and provide for a mixture of uses that include multi-family residential, employment, and commercial uses. The eastern portion of the annexation area is reserved for commercial mixed use development, which is consistent with the Commercial Mixed Use designation.

#### 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

☐ Comments      **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.

☐ Comments      **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.

☐ Comments      **The application contains the required information**

A statement of the facts which the applicant believes justify the amendment; provided; however, that when any amendment changing the zoning map is requested, the following additional information shall be furnished:

☐ Comments      **Pueblo Municipal Code, Section 17-1-3, (e), requires all land annexed to be zoned in the land use classification most nearly corresponding to the land use classification into which said land has been classified under the City's comprehensive plan. The annexation agreement may allow the land to be classified as A-1 for a limited period of time. Pueblo City Council will review the request for annexation at the May 8, 2023 meeting.**

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.

☐ Comments      **The rezoning site is currently undeveloped natural lands, the proposed rezoning will facilitate development of the Pueblo County Detention Center which will inherently increase the amount of traffic to the site. Staff does not anticipate that the proposed rezoning or development will have a negative impact on the surrounding properties.**

A tentative site plan showing proposed structures, uses, open spaces, facilities for parking and loading and arrangements for pedestrian and vehicular circulation.

☐ Comments      **A tentative site plan of the Pueblo County Detention Center will be filed for Planning and Zoning Commission review as required by the S-1, Government Use Zone District.**

A statement of the proposed time schedule for beginning and completion of development.

☐ Comments      **Spring 2023**

A statement reasonably indicating the applicant's economic responsibility and capability of accomplishing the development for which a zoning amendment is requested.

☐ Comments      **Fall 2025**

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**CONTEXT OF ZONE DISTRICT REQUIREMENTS PER §17-4-51(16) OF THE PMC :****A. Purpose of S-1 Zone District Standards:**

The standards of this district are designed to retain and provide land areas held, used or controlled for governmental purposes by or for any department or branch of government, federal, state, county, municipal, school or special district, either as owner or under contract or lease with another person, and to place the public and all elected officials and public agencies on notice of proposed changes in the use and development of such public lands. *Governmental purpose* means and includes any use or activity, which is reasonably necessary in the discharge of a public or governmental function, whether it is performed by a governmental entity or another person for or on behalf of a governmental entity.

**RECOMMENDED ACTION:**

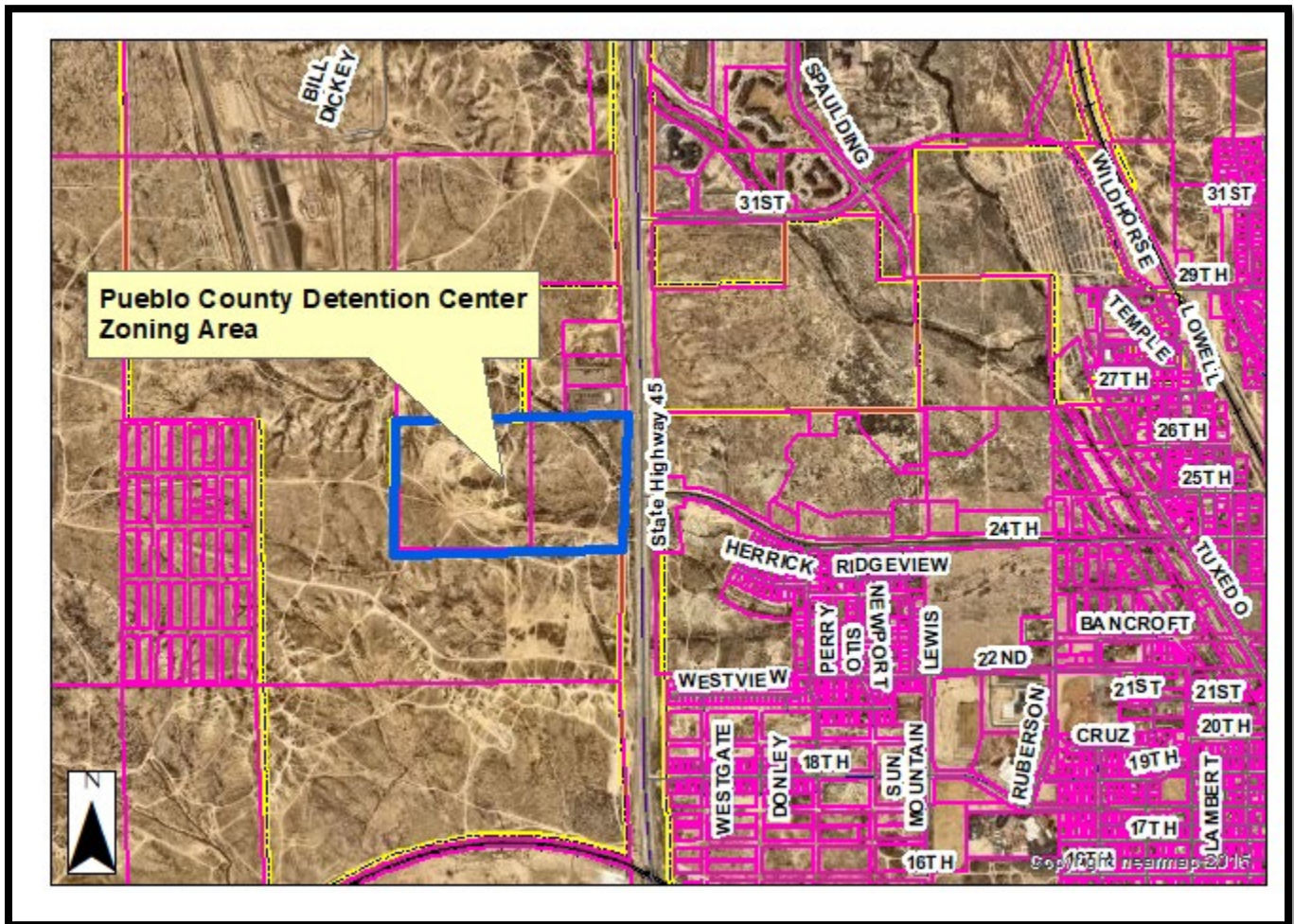
Staff recommends the Planning and Zoning Commission make the necessary findings of fact to forward a recommendation to City Council that the rezoning be **APPROVED**.

**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

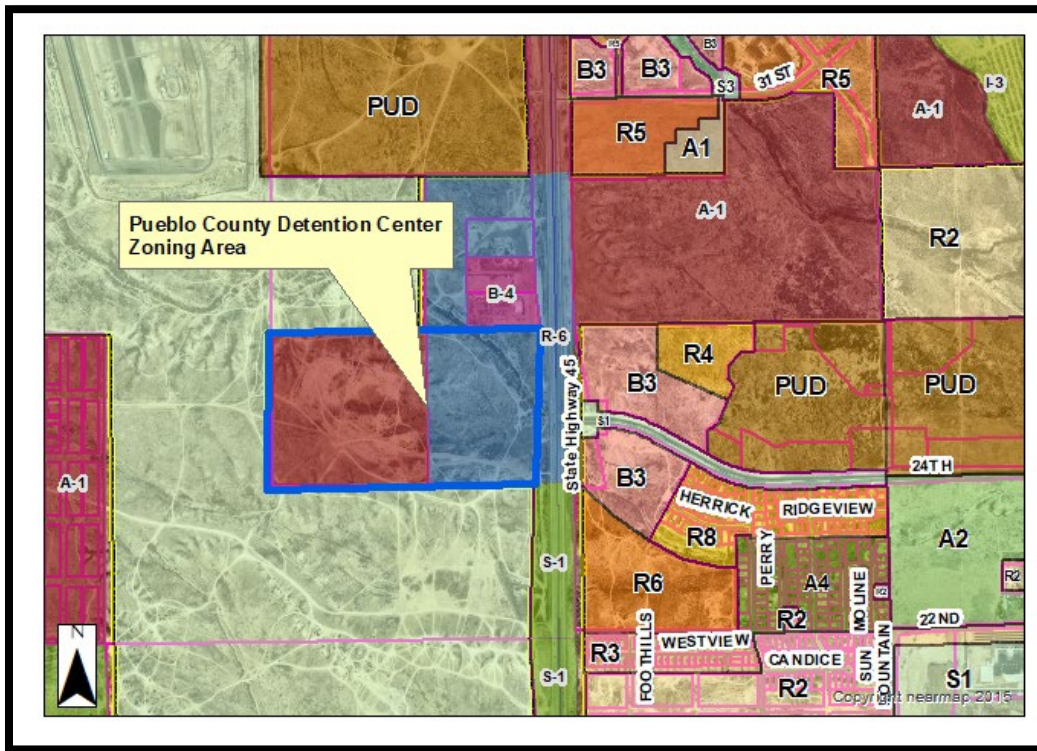
**ATTACHMENTS:**

- A. Aerial Photograph
- B. Zoning Map
- C. Comprehensive Plan Map
- D. Site Photographs
- E. Zoning Exhibit
- F. Application

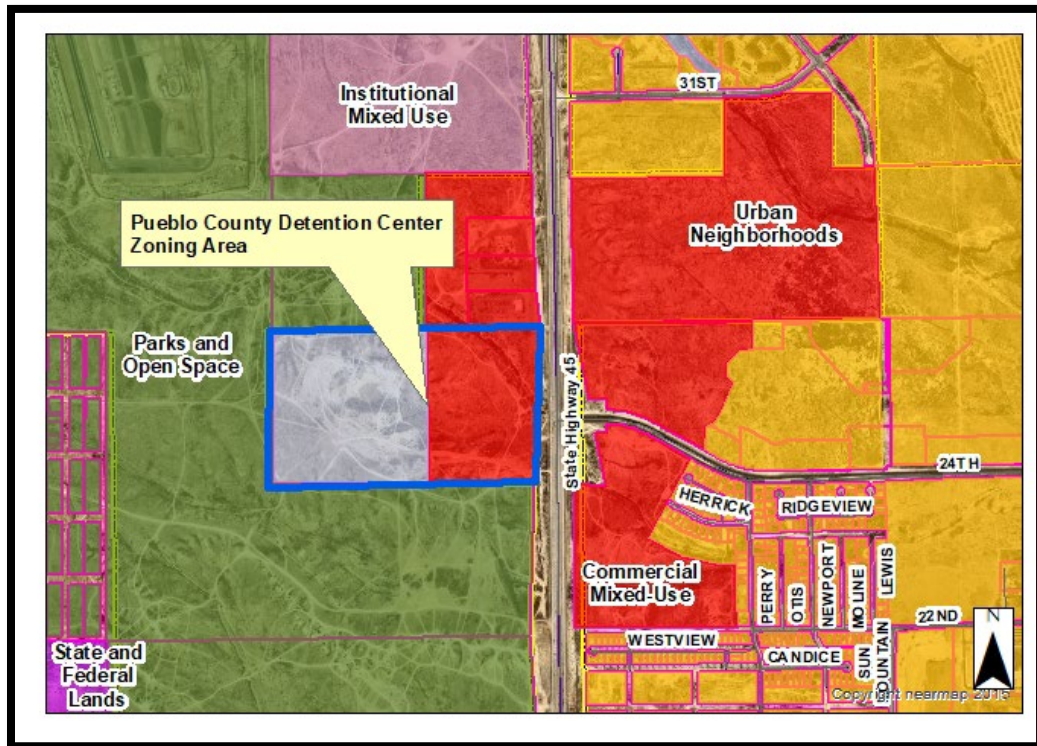


A. Aerial Photograph





B. Zoning



C. Comprehensive Plan





E. Pueblo County Detention Center rezoning site looking west from Pueblo Blvd.



E. Pueblo County Detention Center rezoning site looking east towards Pueblo Blvd.



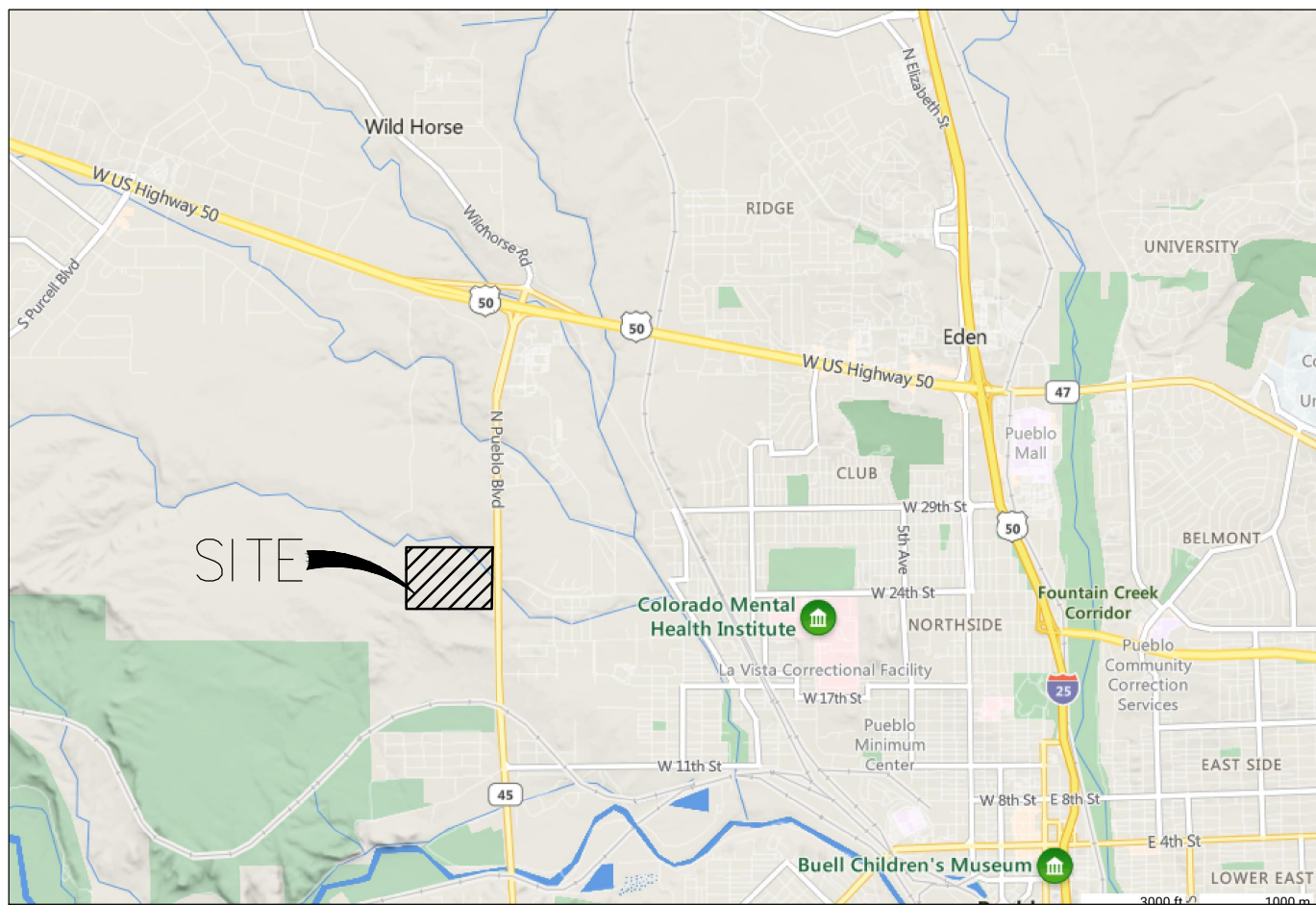
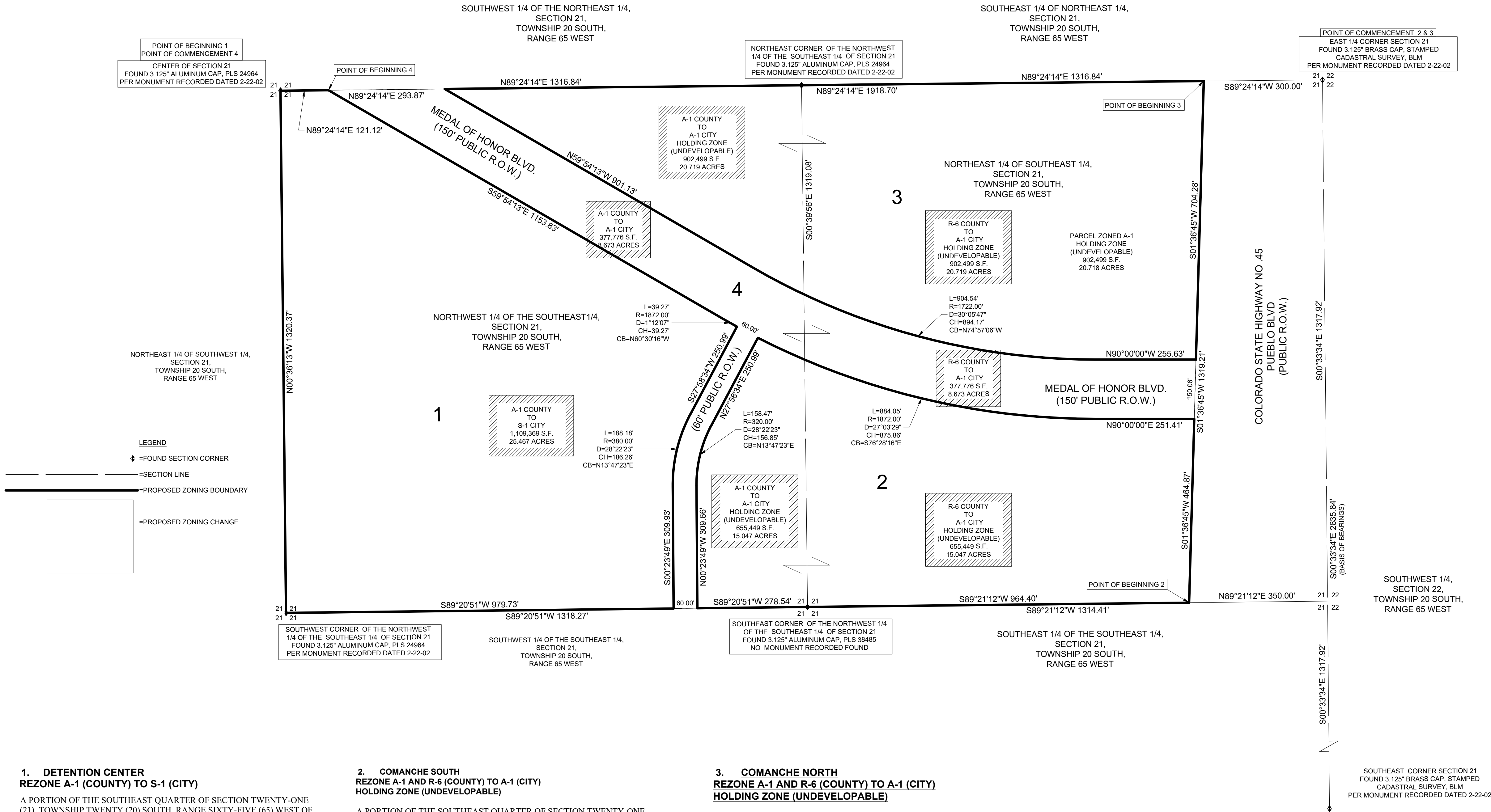


Public Notice Poster



# EXHIBIT "A" ZONING EXHIBIT

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 20 SOUTH, RANGE 65 WEST, OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF PUEBLO, STATE OF COLORADO



VICINITY MAP  
1"=3000'

## GENERAL NOTES

1. BASIS OF BEARINGS: BEARINGS USED HEREON ARE BASED ON THE EAST LINE OF THE SOUTHEAST 1/4 OF SECTION 21, BEING S00°33'34"E, AS MONUMENTED AT THE NORTH BY THE EAST 1/4 CORNER OF SECTION 21 WITH A FOUND 3.125" BRASS CAP STAMPED CADASTRAL SURVEY BLM AND AT THE SOUTH BY THE SOUTHEAST CORNER OF SECTION 21 WITH A FOUND 3.125" BRASS CAP STAMPED CADASTRAL SURVEY BLM.

## 4. MEDAL OF HONOR BLVD. & PUBLIC ROAD RIGHT OF WAY REZONE A-1 AND R-6 (COUNTY) TO A-1 (CITY)

ALL OF THAT PORTION OF MEDAL OF HONOR BLVD AND PUBLIC RIGHT OF WAY LYING IN THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION TWENTY-ONE (21), TOWNSHIP TWENTY (20) SOUTH, RANGE SIXTY-FIVE (65) WEST OF THE SIXTH PRINCIPAL MERIDIAN (6TH P.M.), MORE PARTICULARLY DESCRIBED AS FOLLOWS, COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 21, THENCE, N 89° 24' 14" E, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 121.12 FEET TO THE SOUTHERLY LINE OF MEDAL OF HONOR BLVD. AND THE POINT OF BEGINNING. FROM THE POINT OF BEGINNING, THENCE, N 89° 24' 14" E, CONTINUING ALONG SAID NORTH LINE A DISTANCE OF 293.87 FEET TO A POINT ON THE NORTHERLY LINE OF MEDAL OF HONOR BLVD.; THENCE, S 59° 54' 13" E, ALONG SAID NORTHERLY LINE, A DISTANCE OF 901.13 FEET TO THE BEGINNING OF A CURVE TURNING TO THE LEFT; THENCE CONTINUING ALONG SAID NORTHERLY LINE, ON SAID CURVE, A DISTANCE OF 904.54 FEET, THROUGH AN ANGLE OF 30° 05' 47", HAVING A RADIUS OF 1722.00 FEET, AND WHOSE LONG CHORD BEARS S 74° 57' 06" E FOR A DISTANCE OF 894.17 FEET; THENCE, N 90° 00' 00" E, CONTINUING ALONG SAID NORTHERLY LINE, A DISTANCE OF 255.63 FEET TO A POINT ON THE WEST LINE OF COLORADO STATE HIGHWAY NO. 45; THENCE, S 01° 36' 45" W, ALONG SAID WEST LINE, A DISTANCE OF 150.06 FEET TO A POINT ON THE SOUTH LINE OF MEDAL OF HONOR BLVD.; THENCE, S 90° 00' 00" W, ALONG SAID SOUTH LINE, A DISTANCE OF 251.41 FEET TO THE BEGINNING OF A CURVE TURNING TO THE RIGHT; THENCE CONTINUING ALONG SAID SOUTH LINE, ON SAID CURVE, A DISTANCE OF 884.05 FEET, THROUGH AN ANGLE OF 27° 03' 29", HAVING A RADIUS OF 1872.00 FEET, AND WHOSE LONG CHORD BEARS N 76° 28' 16" W FOR A DISTANCE OF 875.86 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF A PUBLIC RIGHT OF WAY; THENCE, S 27° 58' 34" W, ALONG SAID EAST LINE, A DISTANCE OF 250.99 FEET TO THE BEGINNING OF A CURVE TURNING TO THE LEFT; THENCE ALONG SAID EAST LINE ON SAID CURVE, A DISTANCE OF 158.47 FEET, THROUGH AN ANGLE OF 28° 22' 23", HAVING A RADIUS OF 320.00 FEET, AND WHOSE LONG CHORD BEARS S 13° 47' 23" W FOR A DISTANCE OF 156.85 FEET; THENCE, S 00° 23' 49" E, CONTINUING ALONG SAID EAST LINE, A DISTANCE OF 309.66 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER; THENCE, S 89° 20' 51" W, ALONG SAID SOUTH LINE, A DISTANCE OF 60.00 FEET TO A POINT ON THE WEST LINE OF SAID PUBLIC RIGHT OF WAY; THENCE, N 00° 23' 49" W, ALONG SAID WEST LINE, A DISTANCE OF 309.93 FEET TO THE BEGINNING OF A CURVE TURNING TO THE RIGHT; THENCE CONTINUING ALONG SAID WEST LINE, ON SAID CURVE, A DISTANCE OF 188.18 FEET, THROUGH AN ANGLE OF 01° 12' 07", HAVING A RADIUS OF 380.00 FEET, AND WHOSE LONG CHORD BEARS N 13° 47' 23" E FOR A DISTANCE OF 186.26 FEET; THENCE, N 27° 58' 34" E FOR A DISTANCE OF 250.99 FEET TO A POINT ON THE SOUTHERLY LINE OF MEDAL OF HONOR BLVD. AND THE BEGINNING OF A NON-TANGENTIAL CURVE TURNING TO THE RIGHT; THENCE ALONG SAID SOUTHERLY LINE, ON SAID CURVE, A DISTANCE OF 39.27 FEET, THROUGH AN ANGLE OF 01° 12' 07", HAVING A RADIUS OF 1872.00 FEET, AND WHOSE LONG CHORD BEARS N 60° 30' 16" W FOR A DISTANCE OF 39.27 FEET; THENCE, N 59° 54' 13" W, CONTINUING ALONG SAID SOUTHERLY LINE, A DISTANCE OF 1153.83 FEET TO THE POINT OF BEGINNING.

CONTAINING 8.673 ACRES, MORE OR LESS.

## 1. DETENTION CENTER REZONE A-1 (COUNTY) TO S-1 (CITY)

A PORTION OF THE SOUTHEAST QUARTER OF SECTION TWENTY-ONE (21), TOWNSHIP TWENTY (20) SOUTH, RANGE SIXTY-FIVE (65) WEST OF THE SIXTH PRINCIPAL MERIDIAN (6TH P.M.) BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 21, THENCE, N 89° 24' 14" E, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 121.12 FEET TO THE SOUTHERLY LINE OF MEDAL OF HONOR BLVD.; THENCE, S 59° 54' 13" E, ALONG SAID SOUTHERLY LINE, A DISTANCE OF 1153.83 FEET TO THE BEGINNING OF A CURVE TURNING TO THE LEFT; THENCE CONTINUING ALONG SAID SOUTHERLY LINE ON SAID CURVE, A DISTANCE OF 39.27 FEET, THROUGH AN ANGLE OF 01° 12' 07", HAVING A RADIUS OF 1872.00 FEET, AND WHOSE LONG CHORD BEARS S 60° 30' 16" E, A DISTANCE OF 39.27 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF A PUBLIC RIGHT OF WAY. THENCE, S 27° 58' 34" W, ALONG SAID WEST LINE, A DISTANCE OF 250.99 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; THENCE CONTINUING ALONG SAID WEST LINE ON SAID CURVE, A DISTANCE OF 188.18 FEET, TURNING THROUGH AN ANGLE OF 28° 22' 23", HAVING A RADIUS OF 380.00 FEET, AND WHOSE LONG CHORD BEARS S 13° 47' 23" W, A DISTANCE OF 186.26 FEET; THENCE, S 00° 23' 49" E, CONTINUING ALONG SAID WEST LINE, A DISTANCE OF 309.93 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH HALF OF SAID SOUTHEAST QUARTER; THENCE, S 89° 20' 51" W, ALONG SAID SOUTH LINE, A DISTANCE OF 979.73 FEET TO A POINT ON THE WEST LINE OF SAID SOUTHEAST QUARTER; THENCE N 00° 36' 13" W, ALONG SAID WEST LINE, A DISTANCE OF 1320.37 FEET TO THE POINT OF BEGINNING.

CONTAINING 25.467 ACRES, MORE OR LESS.

## 2. COMANCHE SOUTH REZONE A-1 AND R-6 (COUNTY) TO A-1 (CITY) HOLDING ZONE (UNDEVELOPABLE)

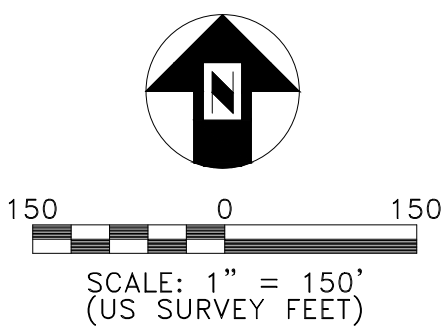
A PORTION OF THE SOUTHEAST QUARTER OF SECTION TWENTY-ONE (21), TOWNSHIP TWENTY (20) SOUTH, RANGE SIXTY-FIVE (65) WEST OF THE SIXTH PRINCIPAL MERIDIAN (6TH P.M.) COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 21, THENCE S 89° 24' 14" W, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 300.00 FEET TO THE WEST LINE OF COLORADO STATE HIGHWAY NO. 45; THENCE S01°36'45" W, ALONG SAID WEST LINE, A DISTANCE OF 1319.21 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH HALF OF SAID SOUTHEAST QUARTER AND THE POINT OF BEGINNING; THENCE, S 89° 21' 12" W, ALONG SAID SOUTH LINE, A DISTANCE OF 964.40 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SOUTHEAST QUARTER; THENCE, S 89° 20' 51" W, ALONG SAID SOUTH LINE, A DISTANCE OF 278.54 FEET TO A POINT ON THE EAST LINE OF A PUBLIC RIGHT OF WAY; THENCE, N 00° 23' 49" W, ALONG SAID EAST LINE FOR A DISTANCE OF 309.66 FEET TO THE BEGINNING OF A CURVE TURNING TO THE RIGHT, THENCE CONTINUING ALONG SAID EAST LINE ON SAID CURVE, A DISTANCE OF 158.47 FEET, THROUGH AN ANGLE OF 28° 22' 23", HAVING A RADIUS OF 320.00 FEET, AND WHOSE LONG CHORD BEARS N 13° 47' 23" E, A DISTANCE OF 156.85 FEET; THENCE, N 27° 58' 34" E, CONTINUING ALONG SAID EAST LINE, A DISTANCE OF 250.99 FEET TO THE SOUTH LINE OF MEDAL OF HONOR BLVD. AND THE BEGINNING OF A NON-TANGENTIAL CURVE TURNING TO THE LEFT; THENCE ALONG SAID SOUTH LINE ON SAID CURVE, A DISTANCE OF 884.05 FEET, THROUGH AN ANGLE OF 27° 03' 29", HAVING A RADIUS OF 1872.00 FEET, AND WHOSE LONG CHORD BEARS S 76° 28' 16" E FOR A DISTANCE OF 875.86 FEET; THENCE, N 90° 00' 00" E, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 251.41 FEET TO THE WEST LINE OF COLORADO STATE HIGHWAY NO. 45; THENCE, S 01° 36' 45" W, ALONG SAID WEST LINE, A DISTANCE OF 150.06 FEET TO THE POINT OF BEGINNING.

CONTAINING 15.047 ACRES, MORE OR LESS.

## 3. COMANCHE NORTH REZONE A-1 AND R-6 (COUNTY) TO A-1 (CITY) HOLDING ZONE (UNDEVELOPABLE)

A PORTION OF THE SOUTHEAST QUARTER OF SECTION TWENTY-ONE (21), TOWNSHIP TWENTY (20) SOUTH, RANGE SIXTY-FIVE (65) WEST OF THE SIXTH PRINCIPAL MERIDIAN (6TH P.M.) COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 21, THENCE S 89° 24' 14" W, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 300.00 FEET TO THE WEST LINE OF COLORADO STATE HIGHWAY NO. 45 AND THE POINT OF BEGINNING; THENCE, S 01° 36' 45" W, ALONG SAID WEST LINE, A DISTANCE OF 704.28 FEET TO A POINT ON THE NORTH LINE OF MEDAL OF HONOR BLVD.; THENCE, N 90° 00' 00" W, ALONG SAID NORTH LINE, A DISTANCE OF 255.63 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; THENCE CONTINUING ALONG SAID NORTH LINE ON SAID CURVE, A DISTANCE OF 904.54 FEET, THROUGH AN ANGLE OF 30° 05' 47", HAVING A RADIUS OF 1722.00 FEET, AND WHOSE LONG CHORD BEARS N 74° 57' 06" W FOR A DISTANCE OF 894.17 FEET; THENCE, N 59° 54' 13" W, CONTINUING ALONG SAID NORTH LINE, A DISTANCE OF 901.13 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHEAST QUARTER; THENCE N 89° 24' 14" E, ALONG SAID NORTH LINE, A DISTANCE OF 1918.70 FEET TO THE POINT OF BEGINNING.

CONTAINING 20.719 ACRES, MORE OR LESS.



|                                                           |  |  |  |  |                            |  |                                                                                                                             |  |
|-----------------------------------------------------------|--|--|--|--|----------------------------|--|-----------------------------------------------------------------------------------------------------------------------------|--|
| ALL SEALS FOR THIS DOCUMENT ARE APPLIED TO THE COVER PAGE |  |  |  |  | SHT. NO. 1 OF 1            |  | <b>WILSON &amp; COMPANY</b><br>990 South Broadway Suite 220<br>Denver, CO 80202<br>Phone: 303-297-2976<br>Fax: 303-297-2993 |  |
|                                                           |  |  |  |  | SCALE: 1"=150'             |  |                                                                                                                             |  |
|                                                           |  |  |  |  | OWN. BY: TJB               |  | DATE: 3-2-2023                                                                                                              |  |
|                                                           |  |  |  |  | CHK. BY:                   |  | JOB NO: 21-100-147                                                                                                          |  |
|                                                           |  |  |  |  | PROJ. MGR: M.J.L.          |  | ZONING EXHIBIT                                                                                                              |  |
| 01 CITY COMMENTS                                          |  |  |  |  | TJB 3/29/23 M.J.L. 3/29/23 |  | 3-2-2023                                                                                                                    |  |
| NO. REVISION DESCRIPTION                                  |  |  |  |  | BY DATE CHKD APPD          |  | COUNTY OF PUEBLO,<br>STATE OF COLORADO                                                                                      |  |



## Planning & Zoning Map Amendment Application (Rezoning)

Please type or print clearly. Illegible applications will not be accepted. Case #: \_\_\_\_\_

|                                                                                                      |                                                          |
|------------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| <b>Property Owner</b>                                                                                |                                                          |
| Name: Sabina Genesio                                                                                 |                                                          |
| Company: Pueblo County, County Manager                                                               |                                                          |
| Address: 215 W. 10th St, Pueblo Colorado                                                             | Zip: 81003                                               |
| Phone: ( ) 719-583-6244                                                                              | Email: genesios@pueblounty.us                            |
| <b>Applicant</b>                                                                                     |                                                          |
| Name: Gary Raso                                                                                      |                                                          |
| Company: P.C. for Pueblo County                                                                      |                                                          |
| Address: 215 E. Pitkin Ave, Pueblo Colorado                                                          | Zip: 81004                                               |
| Phone: ( ) 719-543-1700                                                                              | Email: graso@rasopc.com                                  |
| <b>Person or Firm Representing (If Different From) Owner or Applicant</b>                            |                                                          |
| Name: David Watt                                                                                     |                                                          |
| Company: Wilson and Company                                                                          |                                                          |
| Address: 5755 Mark Dabbling Blvd Suite 220                                                           | Zip: 80919                                               |
| Phone: ( ) 719-651-1026                                                                              | Email: david.watt@wilsonco.com                           |
| <i>The <b>applicant</b> will be the primary contact unless otherwise noted.</i>                      |                                                          |
| <b>Project Location:</b> 3015 Medal of Honor<br>(address or general description)                     |                                                          |
| Parcel# 52100-00-020 and 52100-00019                                                                 |                                                          |
| Legal Description: The Northwest and northeast 1/4s of Sect 21, Township 20 south and range 65 west. |                                                          |
| Subdivision:                                                                                         | Acreage: 70 acres total                                  |
| <b>Existing Zone District:</b> A-1 Pueblo County                                                     | <b>Proposed Zone District:</b> S-1 & A-1, Clty of Pueblo |
|                                                                                                      |                                                          |

**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): \_\_\_\_\_

(Continued from previous page)

**Statement of Facts:**

Justifying the zone change request. Be specific; use additional sheets if necessary.

S-1 Zone is to support development of the Pueblo County Sheriff's new Detention Center. A-1 Holding Zone will be for public rights of way dedicated to the City of Pueblo and for two holding parcels to be reconveyed to Comanche Corp. The parcels will be created via a subsequent subdivision plat to be processed in the City of Pueblo.

**Description of area surrounding proposed development:**

Much of the surrounding property is owned by the City of Pueblo within the Honor Farm MP open space. To the northeast are two private parcels. HMCD Inv. is vacant, and there is an auto auction business. SH 45 is east of the property being zoned.

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.

- ☐ 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: Spring 2023

Estimated date for completion of project: Fall 2025

A statement reasonably indicating the applicant's economic responsibility and capability of accomplishing the development for which a zoning amendment is requested.

Pueblo County has obtained bond financing and additional commitments from its general revenues which will pay for the Detention Center (DC) on the planned S-1 site and fund MOH Blvd. MOH Blvd serves as access to the DC and the A-1 zoned parcels. Also connects Pueblo West and Pueblo consistent with the Honor Farm Master Plan.

- ☐ 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.

|                        |                                             |                                                                                                                  |
|------------------------|---------------------------------------------|------------------------------------------------------------------------------------------------------------------|
| <b>Office Use Only</b> | Zoning Compliance (Completed by City Staff) |                                                                                                                  |
|                        | Application received by:                    | Date:                                                                                                            |
|                        | Application checked for completeness by:    | Date:                                                                                                            |
|                        | Case Manager:                               | Fee Paid:                                                                                                        |
|                        | Hearing date:                               | <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Approved w/conditions |

211 East D Street | Pueblo, Colorado 81003 | Tel 719-553-2259 | Fax 719-553-2359 | TTY 719-553-2611 | www.pueblo.us

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:

Signature:

Date:

**Applicant, if different from Property Owner**

Print Name:

David Watt

Signature:

David Watt

Date: March 6th, 2023

April 24, 2023

The City Planning and Zoning Commission will hold a public hearing on a request from **Pueblo County** for the approval of the following application:

**Zoning:** Pueblo County Detention Center Annexation Zoning, approximately 25.47 to be rezoned from Pueblo County, A-1 to City of Pueblo, S-1, Government Use District and approximately 44.44 acres from Pueblo County, A-1 and R-6 to City of Pueblo A-1, Agricultural One. Generally located west of the intersection of West 24<sup>th</sup> Street and Pueblo Boulevard. Staff report by Principal Planner, Beritt Odom

**The Planning and Zoning Commission meeting will be held on May 10, 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), 1 669 900 6833 US (San Jose).** 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](http://www.pueblo.us/PandZ) and click on “Most Recent Agenda” no sooner than the Friday prior to the hearing. **Please call the number below if you have questions.**

Scott Hobson, Acting Director  
Planning & Community Development  
By **Beritt Odom**, Principal Planner  
(719) 553-2255

April 24, 2023

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April 24, 2023

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Scott Hobson, Acting Director  
Planning & Community Development  
By **Beritt Odom**, Principal Planner  
(719) 553-2255

CASE NUMBER: Z-23-02

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 PC Detention Center 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.

April 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 PC Detention Center, upon which action is pending as set forth in the Code of Ordinances, Section 17-6-2.

April 27, 2023

(Date)

PUEBLO PLANNING & ZONING COMMISSION

By Cindy Caputo

| Owner                                             | OwnerStreet         | OwnerCity | Owr | OwnerZip   |
|---------------------------------------------------|---------------------|-----------|-----|------------|
| BUTCHER JAMES H                                   | 1 JUDYS DREAM LN    | PUEBLO    | CO  | 81005-8703 |
| STATE OF COLORADO DEPT OF NATURAL R + DIV OF PARK | 1375 SHERMAN ST     | DENVER    | CO  | 80203-2240 |
| MORENO CLAUDIO JR/MORENO JOE ANN                  | 1617 AQUILA DR      | PUEBLO    | CO  | 81008-1790 |
| ASH FAMILY INVESTMENTS LLC                        | 2000 MEADOW VALE RD | LONGMON   | CO  | 80504-6220 |
| PUEBLO COUNTY                                     | 215 W 10TH ST       | PUEBLO    | CO  | 81003-2941 |
| H M C D INVESTMENTS LLC                           | 2751 N PUEBLO BLVD  | PUEBLO    | CO  | 81008-2203 |
| HOUSMAN ROBERT C                                  | 63 CORNELL CIR      | PUEBLO    | CO  | 81005-1644 |
| CITY OF PUEBLO A MUNICIPAL CORPORAT               | PO BOX 1427         | PUEBLO    | CO  | 81002-1427 |

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**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 26, 2023

**TO:** President Heather Graham and Members of City Council

**CC:** Mayor Nicholas A. Gradisar

**VIA:** Marisa Stoller, City Clerk

**FROM:** Alexandria Romero, Director of Finance

**SUBJECT:** AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND HILLTOP SECURITIES INC., MUNICIPAL ADVISORY SERVICES AND AUTHORIZING THE MAYOR TO EXECUTE SAME

**SUMMARY:**

This Ordinance approves an agreement between the City of Pueblo and Hilltop Securities, Inc. for municipal advisory services.

**PREVIOUS COUNCIL ACTION:**

Council has previously approved similar agreements for advisory services for issuance of municipal securities and debt financing.

**BACKGROUND:**

Hilltop Securities, Inc., through its Senior Managing Director, Jason Simmons, and Senior Vice President, Mattie Prodanovic, will provide municipal advisory services from the pre-issuance planning stage to the repayment stage, to the City for issuance of municipal securities to fund the construction of the new fire stations.

**FINANCIAL IMPLICATIONS:**

The fees for these services are generally absorbed as part of the cost of debt issuance and are approved through the financing ordinances. Other work performed would need to be budgeted through departmental budgets.

**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 City Council not authorizing the agreement for municipal advisory services.

**RECOMMENDATION:**

Approval of the Ordinance.

**ATTACHMENTS:**

1. HTS Municipal Advisory Agreement - City of Pueblo - 05.23.2023

ORDINANCE NO. 10495

AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND HILLTOP SECURITIES INC., MUNICIPAL ADVISORY SERVICES AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

SECTION 1.

The Agreement between the City of Pueblo, a Municipal Corporation, and Hilltop Securities, Inc., for the rendering of Municipal Advisory Services to the City of Pueblo, 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 June 12, 2023.

Final adoption of Ordinance by City Council on June 26, 2023.

  
\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☒ Approved on June 29, 2023.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

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*Hilda Leal*  
Mayor

**Action by City Council After Disapproval by the Mayor:**

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of \_\_\_\_\_, on \_\_\_\_\_
- ☐ Council action on \_\_\_\_\_ failed to override the Mayor's veto.

\_\_\_\_\_  
President of City Council

ATTEST

*W. S. Lee*  
City Clerk



**Jason Simmons**

Senior Managing Director  
Public Finance

May 23, 2023

Alexandria Romero  
Director of Finance  
City of Pueblo, Colorado  
1 City Hall Place  
Pueblo, CO 81003

Dear Ms. Romero:

On behalf of Hilltop Securities Inc. (“Hilltop Securities”), we appreciate the opportunity to serve as Municipal Advisor to the City of Pueblo, Colorado (the “Issuer” or the “City”). This letter will confirm the basic terms of our engagement and is dated, and shall be effective as of, the date executed by the Issuer as set forth on the signature page hereof (the “Effective Date”).

Hilltop Securities will serve as Municipal Advisor to the Issuer. In this capacity, based on our professional experience and the information made available to us by the Issuer, Hilltop Securities agrees to perform the following Municipal Advisory Scope of Services outlined in Appendix A.

The term of this Agreement begins on the Effective Date and ends, unless terminated pursuant the language below, on the last day of the month in which the fifth anniversary date of the Effective Date shall occur (the “Termination Date”). This Agreement may be terminated with or without cause by the Issuer or Hilltop Securities upon the giving of at least thirty (30) days’ prior written notice to the other party of its intention to terminate, specifying in such notice the effective date of such termination. In the event of such termination, it is understood and agreed that only the amounts due Hilltop Securities for services provided and expenses incurred to the date of termination will be due and payable. No penalty will be assessed for termination of this Agreement.

In consideration of providing the requested services, Hilltop Securities shall receive fees as outlined in Appendix B. In any event regardless of the cause of action, Hilltop Securities’ total liability (including loss and expense) to the Issuer in the aggregate shall not exceed the gross amount of fees received by Hilltop Securities pursuant to this letter agreement. The limitations of liability set forth in this letter agreement are fundamental elements of the basis of the bargain between Hilltop Securities and the Issuer, and the pricing of the services set forth above reflect such limitations. This letter agreement shall be constrained and given effect on accord with the laws of the State of Colorado.

Hilltop Securities is providing its Municipal Advisor Disclosure Statement in Appendix C (the “Disclosure Statement”), current as of the date of this Agreement, setting forth disclosures by Hilltop Securities of material conflicts of interest, if any, and of any legal or disciplinary events required to be disclosed pursuant to Municipal Securities Rulemaking Board Rule G-42. The Disclosure Statement also describes how Hilltop Securities addresses or intends to manage or mitigate any disclosed conflicts of interest, as well as the specific type of information regarding, and the date of the last material change, if any, to the legal and disciplinary events required to be disclosed on Forms MA and MA-I filed by Hilltop Securities with the Securities and Exchange Commission.

We look forward to working with you during this engagement. Please acknowledge acceptance of these terms by signing in the space provided below and returning two copies to me.

Sincerely,

Jason Simmons  
Senior Managing Director

**City of Pueblo, Colorado**  
**Agreed and Accepted:**

By:\_\_\_\_\_

Title:\_\_\_\_\_

Name:\_\_\_\_\_

Date:\_\_\_\_\_

## APPENDIX A

### MUNICIPAL ADVISORY SCOPE OF SERVICES

This Appendix A sets out the scope of the Municipal Advisory Services to be performed by HilltopSecurities pursuant to the Agreement with the understanding that:

1. Individual actions taken within this scope shall be consistent with any request or direction provided by an authorized representative of the Issuer or as HilltopSecurities determines to be necessary or appropriate in furtherance of any matter for which it serves as municipal advisor. However, not all listed activities will be appropriate, necessary or applicable to any particular matter subject to this Agreement.
2. For purposes of this Agreement, an issuance of municipal securities (an “issuance”) shall encompass any and all stages in the life of an issuance, from the pre-issuance planning stage to the repayment stage.

**I. New Issuances of Municipal Securities.** At the direction of or upon the request of the Issuer, HilltopSecurities shall provide advice to the Issuer on any new issuances, including reofferings of outstanding issuances that are treated for purposes of the federal securities laws and/or federal tax laws as new issuances, throughout the term of this Agreement. The activities to be performed by HilltopSecurities may include, depending on the specific circumstances of an issuance and any request or direction of the Issuer, one or more of the following:

#### **Planning for New Issuance**

1. ***Survey and Analysis.*** Surveying the financial resources of the Issuer in connection with its capacity to authorize, issue and service the contemplated issuance. This survey would be expected to include an analysis of any existing debt structure as compared with the existing and projected sources of revenues which may be pledged to secure payment of debt service and, where appropriate, would include a study of the trend of the assessed valuation, taxing power and present and future taxing requirements of the Issuer. In the event revenues of existing or projected facilities operated by the Issuer are to be pledged to repayment of the contemplated issuance, the survey would be expected to take into account any outstanding indebtedness payable from such revenues, additional revenues to be available from any proposed rate increases, and additional revenues resulting from improvements to be financed by the contemplated issuance, as projected by consulting engineers engaged by the Issuer.
2. ***Future Financings.*** In connection with the contemplated issuance, considering and analyzing future financing needs as projected by the Issuer's staff and consulting engineers or other experts, if any, engaged by the Issuer.
3. ***Recommendations.*** Making recommendations to the Issuer on the contemplated issuance, including such elements as the date of issue, interest payment dates, schedule of principal maturities, options for prepayment, security provisions, and such other provisions as may be appropriate.
4. ***Market Information.*** Advising the Issuer of HilltopSecurities' view of current bond market conditions, other related forthcoming bond issues and general information (including applicable economic data) which might normally be expected to influence interest rates or bidding conditions relevant to setting an appropriate date and time for the sale of the issuance.

5. ***Elections.*** In the event it is necessary to hold an election to authorize the contemplated issuance, assisting in coordinating the assembly of such data as may be required for the preparation of necessary petitions, orders, resolutions, ordinances, notices and certificates in connection with the election, including assistance in the transmission of such data to the Issuer's bond counsel.

**Debt Management and Financial Implementation for New Issuance**

1. ***Method of Sale.*** Evaluating the particular financing being contemplated, giving consideration to the complexity, market acceptance, rating, size and structure in order to make a recommendation as to an appropriate method of sale, and:
- a) If the Debt Instruments are to be executed as a direct bank loan with a commercial lender, HilltopSecurities will:
    - 1. Assist in the development and distribution of an RFP to commercial banking institutions; and
    - 2. Assist in the review, evaluation, and selection of a lender.
  - b) If the issuance is to be sold by a competitive sale:
    - 1. Coordinating the preparation of the notice of sale and bidding instructions, official bid form and such other documents as may be required and submitting all such documents to the Issuer for examination, approval and certification.
    - 2. Supervising the sale of the municipal securities;
    - 3. Disseminating information to prospective bidders, organizing such informational meetings as may be necessary, and facilitating prospective bidders' efforts in making timely submission of proper bids;
    - 4. Assisting the staff of the Issuer in coordinating the receipt of bids and the tabulation and comparison of submitted bids;
    - 5. Advising the Issuer regarding the best bid and provide advice regarding acceptance or rejection of the bids; and
    - 6. Obtaining CUSIP numbers on behalf of the Issuer.
  - c) If the issuance is to be sold by negotiated sale:
    - 1. Assisting the issuer with an RFP process to select one or more investment banking firms, as sole underwriter or as managers of an underwriting syndicate, if necessary;
    - 2. Cooperating with and assisting any selected sole or managing underwriter and its counsel, in the review of a bond purchase contract, an underwriters' agreement and other related documents;

3. Providing a cost comparison to the then-current market of underwriters discount, expenses, interest rates and prices which are proposed by the underwriters;
  4. Advising the Issuer on the fairness of the price offered by the underwriters;
  5. Advising the Issuer in connection with any terms and conditions it may wish to establish with respect to order priorities and other similar matters relating to the underwriting of the new issuance;
  6. If the new issuance will have a retail order period, advising the Issuer on retail eligibility criteria and other features of the retail order period and reviewing information provided by the underwriters to the Issuer in connection with retail orders received; and
  7. At the request of the Issuer, reviewing required disclosures by underwriters to the Issuer relating to their role as underwriter, conflicts of interests, material terms and risks of the issuance, and any other matters, and providing any appropriate advice to the Issuer in connection with such disclosures.
- d) If the Debt Instruments are to be executed as a direct loan with the Colorado Water Resources and Power Development Authority or the Colorado Water Conservation Board, HilltopSecurities will:
- i. Assist in the application process; and
  - ii. Assist in the development and execution of loan documents.
2. **Bond Counsel.** Maintaining liaison with bond counsel in the preparation of all legal documents pertaining to the authorization, sale and issuance of the municipal securities.
  3. **Offering Documents.** Coordinate Disclosure or Underwriter's Counsel, as applicable to prepare any Official Statement as needed and such other documents as may be required and submit all such documents to the Issuer for examination, approval, and certification.
  4. **Credit Ratings.** Making recommendations to the Issuer on the advisability of obtaining one or more credit ratings for the issuance and, when directed by the Issuer, coordinating the preparation of such information as may be appropriate for submission to any rating agency. In those cases where the advisability of personal presentation of information to a rating agency may be indicated, HilltopSecurities will arrange for such personal presentations, utilizing such composition of representatives from the Issuer as may be approved or directed by the Issuer.
  5. **Trustee, Paying Agent, Registrar, Professionals and Other Transaction Participants.** Upon request, providing advice to the Issuer in the selection of a trustee and/or paying agent/registrar, legal, accounting or other professionals, and other transaction participants relating to any issuance.
  6. **Financial Publications.** When appropriate, advising financial publications of the forthcoming sale of the municipal securities and providing them with all pertinent information.



7. **Consultants.** After consulting with and receiving directions from the Issuer, arranging for such reports and opinions of recognized independent consultants as may be appropriate for the successful marketing of the issuance.
8. **Auditors.** In the event formal verification by an independent auditor of any calculations incident to the issuance is required, making arrangements for such services.
9. **Issuer Meetings.** Attending meetings of the governing body of the Issuer, its staff, representatives or committees as requested when HilltopSecurities may be of assistance or service and matters within the scope of this engagement are to be discussed.
10. **Printing.** To the extent authorized by the Issuer, coordinating all work incident to printing or final production, physical or electronic, of the offering documents.
11. **Delivery of the Municipal Securities.** As soon as a bid for the purchase of a competitive issuance is accepted by the Issuer or the bond purchase contract for a negotiated issuance is signed by the Issuer, coordinating the efforts of all concerned to the end that the municipal securities may be delivered and paid for as expeditiously as possible and assisting the Issuer in the preparation or verification of final closing figures incident to the delivery of the municipal securities.
12. **Debt Service Schedule.** After the closing of the sale and delivery of the issuance, delivering to the Issuer a schedule of annual debt service requirements for the issuance.
13. **Continuing Disclosure.** Providing guidance to the Issuer with regard to its continuing disclosure undertakings for its new issuances in coordination with Disclosure Counsel.

**II. Baseline Advice on Outstanding Issuances of Municipal Securities.** HilltopSecurities shall provide baseline on-going advice to the Issuer on any outstanding issuances throughout the term of this Agreement, which may include, depending on the specific circumstances of such issuance and any request or direction of the Issuer:

1. **Exercising Calls.** Providing advice and assistance to the Issuer with regard to exercising any calls of outstanding municipal securities unrelated to a refunding of such securities.
2. **Refundings and Tender Offers.** Providing advice to the Issuer with regard to opportunities for refundings of outstanding issuances or to make tender offers for outstanding issuances, whether by means of a new issuance, bank loans, or other funds of the Issuer, but not including serving as advisor in connection with the specific transaction through which such refunding or tender offer is effected. Transaction-based advice in connection with a specific new issuance of bonds to effectuate any such refunding or tender offer would be provided within the scope of Municipal Advisory Services for new issuances described in Section I above.
3. **Continuing Disclosure.** Providing guidance in coordination with Disclosure Counsel to the Issuer with regard to continuing disclosure undertakings for outstanding issuances; processes, policies and procedures to comply with continuing disclosure undertakings; and coordination of continuing disclosure obligations arising from different continuing disclosure undertakings for its various issuances. However, the preparation of continuing disclosure documents, other than in the capacity of dissemination agent under a continuing disclosure undertaking, would be provided within the scope of other services described in Section V. below.

**III. Particularized Services on Outstanding Issuances of Municipal Securities.**

HilltopSecurities may provide to the Issuer certain additional advisory or related services in connection with particular outstanding issuances or matters affecting multiple outstanding issuances throughout the term of this Agreement, which may include, depending on the specific circumstances of such issuance and any request or direction of the Issuer:

1. ***Other Post-Sale Services.*** Reviewing the transaction features and documentation of outstanding issuances with legal counsel for the Issuer, bond counsel, auditors and other experts and consultants retained by the Issuer and assisting in developing appropriate responses to legal processes, audit procedures, inquiries, internal reviews and similar matters, or other services related to one or more outstanding issuances as may be agreed to by the Issuer and HilltopSecurities.

2. ***Brokerage of Municipal Escrow Investments.*** At the request of the Issuer, brokering the purchase of municipal escrow investments in connection with a refunding of an outstanding issuance, together with any recommendations by HilltopSecurities (but not by Hilltop Securities Asset Management, LLC as an investment adviser) with respect to such brokerage.

**IV. Services as Independent Registered Municipal Advisor (“IRMA”).** At the written request of the Issuer, HilltopSecurities shall, as the Issuer’s IRMA, review and provide advice to the Issuer in connection with any recommendations, proposals, ideas or matters suggested or otherwise communicated by a third party to the Issuer with respect to the same aspects of the issuance of municipal securities or municipal financial products that are within the scope of Municipal Advisory Services. There are no aspects of the issuance of municipal securities or municipal financial products that are outside the scope of Municipal Advisory Services set forth in this Appendix.

**V. Other Consulting Services.** HilltopSecurities agrees to make available to the Issuer other consulting, when so requested by the Issuer and subject to a separate task order agreement by Issuer and HilltopSecurities regarding the specific requirements and scope of services with respect to such services, which requirements shall be made part of the scope of Municipal Advisory Services and included in this Appendix as an amendment or addendum, which services may include, without limitation:

1. ***Capital Improvement Programs.*** Providing advice and assistance in the development of any capital improvement programs of the Issuer.

2. ***Long-Range Planning.*** Providing advice and assistance in the development of other long-range financing plans of the Issuer.

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Amendments to this Appendix A may be effected by replacement of this Appendix A with a new version hereof or by the addition of an addendum to this Appendix A, and this Appendix A, as it may have been amended, shall be dated and effective as of the most recent of the date set forth in any such amendment or the date set forth in any addendum to this Appendix A.

## **APPENDIX B**

### **FORM AND BASIS OF COMPENSATION**

This Appendix B sets out the form and basis of compensation to HilltopSecurities for the Municipal Advisory Services provided under this Agreement as set forth in Appendix A; provided that the compensation arrangements set forth in this Appendix B shall also apply to any additional services hereafter added to the scope of the Municipal Advisory Services, unless otherwise provided in the amendment to the Agreement relating to such change in scope of Municipal Advisory Services as provided in paragraph D of Section I of the Agreement.

**Transaction Fee Guidelines.** The fees due HilltopSecurities in connection with the Municipal Advisory Services set forth in Section I of Appendix A hereto for each new issuance of municipal securities will not exceed those contained in our fee schedule as listed below:

For issuances of publicly offered securities through a negotiated or competitive sale, HilltopSecurities proposes a fee of \$1.50 per \$1,000 of par, with a minimum fee of \$35,000 and a maximum fee of \$60,000. For bank loan or private placement transactions the fee will be \$30,000. For transactions that involve a new credit, are of a more complicated nature, or that require an extended timeframe to complete, HilltopSecurities reserves the right to request an alternative fee that is mutually agreed upon between HilltopSecurities and the Issuer.

The payment of charges as set forth in this Section I for new issuances shall be contingent upon the delivery of the new issuance and shall be due at the time that the municipal securities are delivered.

There shall be no additional fees due HilltopSecurities in connection with the Municipal Advisory Services set forth in Sections II, III, and IV of Appendix A hereto, with the understanding that such services are integral to HilltopSecurities' engagement as municipal advisor to the Issuer and HilltopSecurities shall be compensated for such services through and as part of the fees paid for the other services provided by HilltopSecurities hereunder.

**Consulting Services Fee Guidelines.** In connection with any services described in Section V of Appendix A hereto requested by the Issuer and agreed to by HilltopSecurities, the fees due with respect to any such services shall be charged an hourly billing rate as follows.

|                          |       |
|--------------------------|-------|
| Senior Managing Director | \$350 |
| Senior Vice President    | \$300 |
| Vice President           | \$250 |
| Assistant Vice President | \$200 |
| Analyst/Associate        | \$175 |

**Expenses.** The Issuer shall be responsible for the following expenses in connection with the Municipal Advisory Services (including any additional services hereafter added to the scope of the Municipal Advisory Services), if and when applicable, whether they are charged to the Issuer directly as expenses or charged to the Issuer by HilltopSecurities as reimbursable expenses: bond counsel fees and expenses, bond printing costs, bond ratings fees and expenses, credit enhancement fees and expenses, accountant fees for verifications and related activities in connection with refundings, official statement preparation and printing, paying agent/registrar/trustee fees and expenses, travel expenses, underwriter and underwriter's counsel fees and expenses, and other miscellaneous expenses incurred by HilltopSecurities in the furtherance of any matter for which it serves as municipal advisor, including copy, delivery, phone and other charges normally incurred in connection with engagements of this type.

## APPENDIX C

### MUNICIPAL ADVISOR DISCLOSURE STATEMENT

This disclosure statement (“Conflict Disclosures”) is provided by **Hilltop Securities Inc.** (“the Firm”) to you (the “Client”) in connection with our current municipal advisory agreement, (“the Agreement”). These Conflict Disclosures provide information regarding conflicts of interest and legal or disciplinary events of the Firm that are required to be disclosed to the Client pursuant to MSRB Rule G-42(b) and (c)(ii).

#### **PART A – Disclosures of Conflicts of Interest**

MSRB Rule G-42 requires that municipal advisors provide to their clients disclosures relating to any actual or potential material conflicts of interest, including certain categories of potential conflicts of interest identified in Rule G-42, if applicable.

***Material Conflicts of Interest*** – The Firm makes the disclosures set forth below with respect to material conflicts of interest in connection with the Scope of Services under the Agreement with the Firm, together with explanations of how the Firm addresses or intends to manage or mitigate each conflict.

***General Mitigations*** – As general mitigations of the Firm’s conflicts, with respect to all of the conflicts disclosed below, the Firm mitigates such conflicts through its adherence to its fiduciary duty to Client, which includes a duty of loyalty to Client in performing all municipal advisory activities for Client. This duty of loyalty obligates the Firm to deal honestly and with the utmost good faith with Client and to act in Client’s best interests without regard to the Firm’s financial or other interests. In addition, because the Firm is a broker-dealer with significant capital due to the nature of its overall business, the success and profitability of the Firm is not dependent on maximizing short-term revenue generated from individualized recommendations to its clients but instead is dependent on long-term profitability built on a foundation of integrity, quality of service and strict adherence to its fiduciary duty. Furthermore, the Firm’s municipal advisory supervisory structure, leveraging our long-standing and comprehensive broker-dealer supervisory processes and practices, provides strong safeguards against individual representatives of the Firm potentially departing from their regulatory duties due to personal interests. The disclosures below describe, as applicable, any additional mitigations that may be relevant with respect to any specific conflict disclosed below.

**I. Affiliate Conflict.** The Firm, directly and through affiliated companies, provides or may provide services/advice/products to or on behalf of clients that are related to the Firm’s advisory activities within the Scope of Services outlined in the Agreement. Hilltop Securities Asset Management (HSAM), a SEC-registered affiliate of the Firm, provides post issuance services including arbitrage rebate and treasury management. The Firm’s arbitrage team verifies rebate and yield restrictions on the investments of bond proceeds on behalf of clients in order to meet IRS restrictions. The treasury management division performs portfolio management/advisor services on behalf of public sector clients. The Firm, through affiliate Hilltop Securities Asset Management (HSAM), provides a multi-employer trust tailor-made for public entities which allows them to prefund Other Post-Employment Benefit liabilities. The Firm has a structured products desk that provides advice to help clients mitigate risk through investment management, debt management and commodity price risk management products. These products consist of but are not limited to swaps (interest rate, currency, commodity), options, repos, escrow structuring and other securities. Continuing Disclosure services provided by the Firm work with issuers to assist them in meeting disclosure requirements set forth in SEC rule 15c2-12. Services include but are not limited to ongoing maintenance of issuer compliance, automatic tracking of issuer’s annual filings and public notification of material events. The Firm administers government investment pools. These programs offer governmental entities investment options for their cash management programs based on the entities specific needs. The Firm and the aforementioned

affiliate's business with a client could create an incentive for the Firm to recommend to a client a course of action designed to increase the level of a client's business activities with the affiliates or to recommend against a course of action that would reduce or eliminate a client's business activities with the affiliates. This potential conflict is mitigated by the fact that the Firm and affiliates are subject to their own comprehensive regulatory regimes.

**II. PlainsCapital Bank Affiliate Conflict.** The Firm, directly and through affiliated companies, provides or may provide services/advice/products to or on behalf of clients that are related to the Firm's advisory activities within the Scope of Services outlined in the Agreement. Affiliate, PlainsCapital Bank, provides banking services to municipalities including loans and custody. The Firm and the aforementioned affiliate's business with a client could create an incentive for the Firm to recommend to a client a course of action designed to increase the level of a client's business activities with the affiliates or to recommend against a course of action that would reduce or eliminate a client's business activities with the affiliates. This potential conflict is mitigated by the fact that the Firm and affiliates are subject to their own comprehensive regulatory regimes.

**III. Other Municipal Advisor or Underwriting Relationships.** The Firm serves a wide variety of other clients that may from time to time have interests that could have a direct or indirect impact on the interests of Client. For example, the Firm serves as municipal advisor to other municipal advisory clients and, in such cases, owes a regulatory duty to such other clients just as it does to Client. These other clients may, from time to time and depending on the specific circumstances, have competing interests, such as accessing the new issue market with the most advantageous timing and with limited competition at the time of the offering. In acting in the interests of its various clients, the Firm could potentially face a conflict of interest arising from these competing client interests. In other cases, as a broker-dealer that engages in underwritings of new issuances of municipal securities by other municipal entities, the interests of the Firm to achieve a successful and profitable underwriting for its municipal entity underwriting clients could potentially constitute a conflict of interest if, as in the example above, the municipal entities that the Firm serves as underwriter or municipal advisor have competing interests in seeking to access the new issue market with the most advantageous timing and with limited competition at the time of the offering. None of these other engagements or relationships would impair the Firm's ability to fulfill its regulatory duties to Client.

**IV. Secondary Market Transactions in Client's Securities.** The Firm, in connection with its sales and trading activities, may take a principal position in securities, including securities of Client, and therefore the Firm could have interests in conflict with those of Client with respect to the value of Client's securities while held in inventory and the levels of mark-up or mark-down that may be available in connection with purchases and sales thereof. In particular, the Firm or its affiliates may submit orders for and acquire Client's securities issued in an Issue under the Agreement from members of the underwriting syndicate, either for its own account or for the accounts of its customers. This activity may result in a conflict of interest with Client in that it could create the incentive for the Firm to make recommendations to Client that could result in more advantageous pricing of Client's bond in the marketplace. Any such conflict is mitigated by means of such activities being engaged in on customary terms through units of the Firm that operate independently from the Firm's municipal advisory business, thereby reducing the likelihood that such investment activities would have an impact on the services provided by the Firm to Client under this Agreement.

**V. Broker-Dealer and Investment Advisory Business.** The Firm is dually registered as a broker-dealer and an investment advisor that engages in a broad range of securities-related activities to service its clients, in addition to serving as a municipal advisor or underwriter. Such securities-related activities, which may include but are not limited to the buying and selling of new issue and outstanding securities and investment advice in connection with such securities, including securities of Client, may be undertaken on behalf of, or as counterparty to, Client, personnel of Client, and current or potential

investors in the securities of Client. These other clients may, from time to time and depending on the specific circumstances, have interests in conflict with those of Client, such as when their buying or selling of Client's securities may have an adverse effect on the market for Client's securities, and the interests of such other clients could create the incentive for the Firm to make recommendations to Client that could result in more advantageous pricing for the other clients. Furthermore, any potential conflict arising from the firm effecting or otherwise assisting such other clients in connection with such transactions is mitigated by means of such activities being engaged in on customary terms through units of the Firm that operate independently from the Firm's municipal advisory business, thereby reducing the likelihood that the interests of such other clients would have an impact on the services provided by the Firm to Client.

**VI. Compensation-Based Conflicts.** Fees that are based on the size of the issue are contingent upon the delivery of the Issue. While this form of compensation is customary in the municipal securities market, this may present a conflict because it could create an incentive for the Firm to recommend unnecessary financings or financings that are disadvantageous to Client, or to advise Client to increase the size of the issue. This conflict of interest is mitigated by the general mitigations described above.

Fees based on a fixed amount are usually based upon an analysis by Client and the Firm of, among other things, the expected duration and complexity of the transaction and the Scope of Services to be performed by the Firm. This form of compensation presents a potential conflict of interest because, if the transaction requires more work than originally contemplated, the Firm may suffer a loss. Thus, the Firm may recommend less time-consuming alternatives, or fail to do a thorough analysis of alternatives. This conflict of interest is mitigated by the general mitigations described above.

Hourly fees are calculated with, the aggregate amount equaling the number of hours worked by Firm personnel times an agreed-upon hourly billing rate. This form of compensation presents a potential conflict of interest if Client and the Firm do not agree on a reasonable maximum amount at the outset of the engagement, because the Firm does not have a financial incentive to recommend alternatives that would result in fewer hours worked. This conflict of interest is mitigated by the general mitigations described above.

## **PART B – Disclosures of Information Regarding Legal Events and Disciplinary History**

MSRB Rule G-42 requires that municipal advisors provide to their clients certain disclosures of legal or disciplinary events material to its client's evaluation of the municipal advisor or the integrity of the municipal advisor's management or advisory personnel.

Accordingly, the Firm sets out below required disclosures and related information in connection with such disclosures.

**I. Material Legal or Disciplinary Event.** The Firm discloses the following legal or disciplinary events that may be material to Client's evaluation of the Firm or the integrity of the Firm's management or advisory personnel:

- For related disciplinary actions please refer to the Firm's [BrokerCheck](#) webpage.
- The Firm self-reported violations of SEC Rule 15c2-12: Continuing Disclosure. The Firm settled with the SEC on February 2, 2016. The firm agreed to retain independent consultant and adopt the consultant's finding. Firm paid a fine of \$360,000.

- The Firm settled with the SEC in matters related to violations of MSRB Rules G-23(c), G-17 and SEC rule 15B(c) (1). The Firm disgorged fees of \$120,000 received as financial advisor on the deal, paid prejudgment interest of \$22,400.00 and a penalty of \$50,000.00.
- The Firm entered into a Settlement Agreement with Rhode Island Commerce Corporation. Under the Settlement Agreement, the firm agreed to pay \$16.0 million to settle any and all claims in connection with The Rhode Island Economic Development Corporation Job Creation Guaranty Program Taxable Revenue Bond (38 Studios, LLC Project) Series 2010, including the litigation thereto. The case, filed in 2012, arose out of a failed loan by Rhode Island Economic Development Corporation. The firm's predecessor company, First Southwest Company, LLC, was one of 14 defendants. HilltopSecurities' engagement was limited to advising on the structure, terms, and rating of the underlying bonds. Hilltop settled with no admission of liability or wrongdoing.
- On April 30, 2019, the Firm entered into a Settlement Agreement with Berkeley County School District of Berkeley County, South Carolina. The case, filed in March of 2019, arose in connection with certain bond transactions occurring from 2012 to 2014, for which former employees of Southwest Securities, Inc., a predecessor company, provided financial advisory services. The Firm agreed to disgorge all financial advisory fees related to such bond transactions, which amounted to \$822,966.47, to settle any and all claims, including litigation thereto. Under the Settlement Agreement, the Firm was dismissed from the lawsuit with prejudice, no additional penalty, and with no admission of liability or wrongdoing.
- From July 2011 to October 2015, Hilltop failed to submit required MSRB Rule G-32 information to EMMA in connection with 122 primary offerings of municipal securities for which the Firm served as placement agent. During the period January 2012 to September 2015, the Firm failed to provide MSRB Rule G-17 letters to issuers in connection with 119 of the 122 offerings referenced above. From October 2014 to September 2015, the Firm failed to report on Form MSRB G-37 that it had engaged in municipal securities business as placement agent for 45 of these 122 offerings. This failure was a result of a misunderstanding by one branch office of Southwest Securities. Hilltop discovered these failures during the merger of FirstSouthwest and Southwest Securities and voluntarily reported them to FINRA. The Firm paid a fine of \$100,000 for these self-reported violations.
- In connection with a settlement on July 9, 2021, the U.S. Securities and Exchange Commission found that, between January 2016 and April 2018, the Firm bought municipal bonds for its own account from another broker-dealer and that, on occasion during that time period, the other broker-dealer mischaracterized the Firm's orders when placing them with the lead underwriter. The SEC found that, among other things, the Firm lacked policies and procedures with respect to how stock orders were submitted for new issues bonds to third parties, including the broker-dealer that mischaracterized the Firm's orders. The SEC found violations of MSRB Rules G-27, G-17, and SEC rule 15B(c)(1) and a failure to reasonably supervise within the meaning of Section 15(b)(4)(E) of the Securities Exchange Act of 1934. The Firm was censured and ordered to pay disgorgement of \$206,606, prejudgment interest of \$48,587 and a penalty of \$85,000.

**II. How to Access Form MA and Form MA-I Filings.** The Firm's most recent Form MA and each most recent Form MA-I filed with the SEC are available on the SEC's EDGAR system at [Forms](#)

MA and MA-I. The SEC permits certain items of information required on Form MA or MA-I to be provided by reference to such required information already filed by the Firms in its capacity as a broker-dealer on Form BD or Form U4 or as an investment adviser on Form ADV, as applicable. Information provided by the Firm on Form BD or Form U4 is publicly accessible through reports generated by BrokerCheck at <http://brokercheck.finra.org/>, and the Firm's most recent Form ADV is publicly accessible at the Investment Adviser Public Disclosure website at <http://www.adviserinfo.sec.gov/>. For purposes of accessing such BrokerCheck reports or Form ADV, click previous hyperlinks.

### **PART C – MSRB Rule G-10 Disclosure**

MSRB Rule G-10 covers Investor and Municipal Advisory Client education and protection. This rule requires that municipal advisors make certain disclosures to all municipal advisory clients. This communication is a disclosure only and does not require any action on your part. The disclosures are noted below.

1. Hilltop Securities Inc. is registered with the U.S. Securities and Exchange Commission and the Municipal Securities Rulemaking Board as a Municipal Advisor.
2. You can access the website for the Municipal Securities Rulemaking Board at [www.msrb.org](http://www.msrb.org)
3. The Municipal Securities Rulemaking Board has posted a municipal advisory client brochure. A copy of the brochure is attached to the memo. This link will take to you to the electronic version [MA Client Brochure](#)

### **PART D – Future Supplemental Disclosures**

As required by MSRB Rule G-42, this Municipal Advisor Disclosure Statement may be supplemented or amended, from time to time as needed, to reflect changed circumstances resulting in new conflicts of interest or changes in the conflicts of interest described above, or to provide updated information with regard to any legal or disciplinary events of the Firm. The Firm will provide Client with any such supplement or amendment as it becomes available throughout the term of the Agreement.





**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 26, 2023

**TO:** President Heather Graham and Members of City Council

**CC:** Mayor Nicholas A. Gradisar

**VIA:** Marisa Stoller, City Clerk

**FROM:** Marisa Stoller, City Clerk

**SUBJECT:** AN ORDINANCE DIRECTING THAT THE NOVEMBER 7, 2023 GENERAL MUNICIPAL ELECTION BE CONDUCTED AS PART OF A COORDINATED ELECTION, ADOPTING FOR USE AT THE GENERAL MUNICIPAL ELECTION THE REQUIREMENTS AND PROCEDURES OF THE UNIFORM ELECTION CODE OF 1992 EXCEPT TO THE EXTENT THE UNIFORM ELECTION CODE OF 1992 CONFLICTS WITH A SPECIFIC PROVISION OF THE CHARTER OF THE CITY OF PUEBLO, AND SUSPENDING FOR SUCH PURPOSES THE PUEBLO ELECTION CODE AND ALL ORDINANCES AND RESOLUTIONS OF THE CITY IN CONFLICT THEREWITH

**SUMMARY:**

This Ordinance directs that the November 7, 2023 General Municipal Election be conducted as part of a Coordinated Election with Pueblo County.

**PREVIOUS COUNCIL ACTION:**

The City has previously conducted its General Municipal Elections as part of a Coordinated Election with Pueblo County.

**BACKGROUND:**

Pursuant to §§1-1-111(2) and 1-7-116(1) C.R.S., the City may elect to conduct a coordinated election and contract with the County Clerk and Recorder of the County in which the political subdivision is organized to perform all or part of the required duties in conducting the election. Pursuant to §§1-7-116(1) and (2), C.R.S., and upon such election by City to conduct a coordinated election, the City and County are obligated to enter into an IGA for Election Services. The IGA for Election Services shall be submitted by separate ordinance for approval.

**FINANCIAL IMPLICATIONS:**

The City shall pay to the County Clerk the City's share of the actual cost of materials and services directly attributable to the City's participation in the Coordinated Election including the preparation and mailing of a TABOR Notice, if necessary. The City's share is estimated to cost between \$90,000 and \$95,000. Funding for the costs associated with conducting this General Municipal Election is allocated in the City Clerk's 2023 Departmental Budget.

**BOARD/COMMISSION RECOMMENDATION:**

The Board of Elections, at a meeting on May 23, 2023, reviewed this Ordinance Calling for a General Election and adopted an Election Board Resolution Recommending the adoption of this Ordinance by the City Council. The Board of Elections feels that it is in the best interest of the City and its Citizens to participate in the Coordinated Election on November 7, 2023.

**STAKEHOLDER PROCESS:**

Not applicable.

**ALTERNATIVES:**

None.

**RECOMMENDATION:**

Passage of the Ordinance.

**ATTACHMENTS:**

1. Election Board Resolution 2023-2



ORDINANCE NO. 10496

AN ORDINANCE DIRECTING THAT THE NOVEMBER 7, 2023 GENERAL MUNICIPAL ELECTION BE CONDUCTED AS PART OF A COORDINATED ELECTION, ADOPTING FOR USE AT THE GENERAL MUNICIPAL ELECTION THE REQUIREMENTS AND PROCEDURES OF THE UNIFORM ELECTION CODE OF 1992 EXCEPT TO THE EXTENT THE UNIFORM ELECTION CODE OF 1992 CONFLICTS WITH A SPECIFIC PROVISION OF THE CHARTER OF THE CITY OF PUEBLO, AND SUSPENDING FOR SUCH PURPOSES THE PUEBLO ELECTION CODE AND ALL ORDINANCES AND RESOLUTIONS OF THE CITY IN CONFLICT THEREWITH

WHEREAS, Article X, Section 20 of the Colorado constitution and the Uniform Election Code of 1992 permits municipalities to coordinate elections with the State of Colorado and its political subdivisions; and

WHEREAS, a State election and other elections will be held at the same time as the City's General Municipal Election on November 7, 2023, and

WHEREAS, the Uniform Election Code of 1992 applies to any municipal election conducted as part of a Coordinated Election and authorizes a municipality to utilize the requirements and procedures of the Uniform Election Code of 1992 for the conduct of such elections, and

WHEREAS, it would be in the best interests of the City and its citizens to participate in a Coordinated Election on November 7, 2023; NOW, THEREFORE,

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

SECTION 1.

The City's General Municipal Election to be held on November 7, 2023 shall be conducted as part of a Coordinated Election as defined in the Uniform Election Code of 1992.

SECTION 2.

Pursuant to the authority granted by Article XX and Article X, Section 20 of the Colorado Constitution and §§1-1-102 and 31-10-102.7 C.R.S., the requirements and procedures of the Uniform Election Code of 1992 (Articles 1 to 12 including Article 7.5 the Mail Ballot Election Act, of Title 1, C.R.S. but not Article 13 thereof relating to election offenses), except to the extent they conflict with a specific provision of the Charter of the City of Pueblo, are hereby adopted and will be utilized in the conduct of the General Municipal Election to be held as part of a Coordinated Election on November 7, 2023.

SECTION 3.

The City Clerk, the Board of Elections, and all officers and staff of the City are authorized and directed to cooperate with the Pueblo County Clerk and Recorder and to take all action necessary, appropriate or required to effectuate the provisions of this Ordinance and to conduct the General Municipal Election to be held on November 7, 2023 as part of a Coordinated Election, in compliance with the requirements and procedures of the Charter of the City of Pueblo, Article X, Section 20 of the Colorado Constitution, and the Uniform Election Code of 1992.

#### SECTION 4.

The City Council does hereby adopt the optional registration plan provided for in Section 17-9 of the Charter of the City of Pueblo and hereby determines and declares that voting machines are not available.

#### SECTION 5.

All public notices that are required to be published with respect to the General Municipal Election shall be published in *The Pueblo Chieftain*.

#### SECTION 6.

The Pueblo Election Code and all other Ordinances and Resolutions of the City inconsistent with the Uniform Election Code of 1992 and this Ordinance are hereby superseded, suspended and repealed to the extent only of such inconsistency for and during the conduct of the Coordinated Election to be held November 7, 2023.

#### SECTION 7.

The City Clerk is hereby designated as the City's Election Official for purposes of the Coordinated Election to be held November 7, 2023. The Director of Finance is hereby designated as the City Council's designee responsible for providing to the City Clerk the fiscal information that must be included in any ballot issue notice for any initiated measure or ballot issue referred to the voters by the City Council at the Coordinated Election to be held November 7, 2023.

#### SECTION 8.

If any section, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or enforceability of such section, clause or provision shall not affect any of the remaining sections, clauses or provisions of this Ordinance.

#### SECTION 9.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

**Action by City Council:**

Introduced and initial adoption of Ordinance by City Council on June 12, 2023.

Final adoption of Ordinance by City Council on June 26, 2023.



\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☒ Approved on June 29, 2023.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



\_\_\_\_\_  
Mayor

**Action by City Council After Disapproval by the Mayor:**

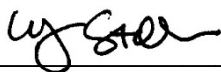
☐ Council did not act to override the Mayor's veto.

☐ 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



## BOARD OF ELECTIONS

### Resolution No. 2023-2

BE IT RESOLVED BY THE BOARD OF ELECTIONS OF PUEBLO, COLORADO that:

The Ordinance directing that the November 7, 2023 General Municipal Election be Conducted as Part of a Coordinated Election, Adopting for Use at the General Municipal Election the Requirements and Procedures of the Uniform Election Code of 1992 except to the extent the Uniform Code of 1992 Conflicts with a specific provision of the Charter of the City of Pueblo, and suspending for such purposes all Ordinances and Resolutions of the City in conflict therewith, was reviewed by the Board of Election.

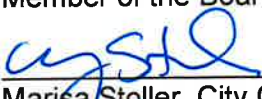
Upon a motion made by Alvin Rivera and seconded by Marisa Stoller and unanimously adopted, the Board of Elections recommends the Adoption of the Ordinance by the City Council to constitute the election procedures, rules, and regulations, as to the matters set forth in Section 17-7 of the Charter and the Uniform Election Code of 1992.

Passed and approved this 23 day of May 2023.

APPROVED:

  
\_\_\_\_\_  
Alvin Rivera  
Member of the Board of Elections

\_\_\_\_\_  
Sharon Sullenberger  
Member of the Board of Elections

  
\_\_\_\_\_  
Marisa Stoller, City Clerk and  
Chair of the Board of Elections

ATTEST:

  
\_\_\_\_\_  
Deputy City Clerk



**Background Paper for Proposed  
Resolution**

**COUNCIL MEETING DATE:** June 12, 2023

**TO:** President Heather Graham and Members of City Council

**CC:** Mayor Nicholas A. Gradisar

**VIA:** Marisa Stoller, City Clerk

**FROM:** Alexandria Romero, Director of Finance  
Robert Jagger, Deputy City Attorney

**SUBJECT:** A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF UP TO \$1,831,620 FROM PROJECT C12113 - AMERICAN RESCUE PLAN ACT FOR A ONE-TIME \$10,000 RETENTION BONUS TO EXISTING SWORN LINE STAFF, POLICE OFFICERS, 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 the transfer of funds in the amount of up to \$1,831,620 for a one-time \$10,000 retention bonus to existing sworn line staff Police Officers. This transfer 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:**

Not applicable to this Resolution.

**BACKGROUND:**

In an effort to retain high quality existing sworn line staff Police Offices, the City and the International Brotherhood of Police Officers Local #537 have been working cooperatively to make positive amendments to the collective bargaining agreement. Included in the agreement is a one-time \$10,000 retention bonus to existing sworn line staff Police Officers. The Retention Bonus is an isolated and unique wage payment based upon the likely loss of Police Officers and substantiated by Union's survey and presentation at the April 24, 2023 City Council Work Session.



The retention bonuses can be an eligible use of ARPA funds under 31C.F.R. 35.6(b)(3)(ii)(E)(4). Treasury will presume that retention incentives that are less than 25 percent of the rate of base pay for an individual employee or 10 percent for a group or category of employees are reasonably proportional to the need to retain employees, as long as the other requirements are met. To the extent the \$10,000 retention bonus exceeds 10 percent of the rate of base pay of an individual and the 25% cannot be justified on an individual basis, the difference will be paid from the General Fund and Public Safety Tax Fund.

**FINANCIAL IMPLICATIONS:**

Funding in the amount of up to \$1,831,620 will be made available and will be paid out of Project CI2113 - American Rescue Plan Act.

**BOARD/COMMISSION RECOMMENDATION:**

None.

**STAKEHOLDER PROCESS:**

International Brotherhood of Police Officers Local #537 has agreed to and is supportive of the retention bonuses.

**ALTERNATIVES:**

City Council could decide not to authorize ARPA funds for retention bonuses.

**RECOMMENDATION:**

Approval of the Resolution.

**ATTACHMENTS:**

None

RESOLUTION NO. 15291

A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF UP TO \$1,831,620 FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT FOR A ONE-TIME \$10,000 RETENTION BONUS TO EXISTING SWORN LINE STAFF, POLICE OFFICERS, AS AUTHORIZED BY SECTION 603(C)(1)(C) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6.

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The transfer of funds in the amount of up to \$1,831,620 is hereby authorized from Project CI2113 - American Rescue Plan Act for a one-time \$10,000 retention bonus to existing sworn line staff, Police Officers.

SECTION 2.

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

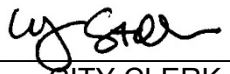
SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED: June 26, 2023

BY: Sarah Martinez  
MEMBER OF CITY COUNCIL

APPROVED:   
PRESIDENT OF CITY COUNCIL

ATTESTED BY:   
CITY CLERK



**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 12, 2023

**TO:** President Heather Graham and Members of City Council

**CC:** Mayor Nicholas A. Gradisar

**VIA:** Marisa Stoller, City Clerk

**FROM:** Nicholas Gradisar, Mayor  
Bob Jagger, Acting City Attorney  
Marisa Pacheco, Director Human Resources

**SUBJECT:** AN ORDINANCE APPROVING AN AMENDMENT TO THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS LOCAL 537 RELATING TO RETENTION BONUSES, REDUCTIONS OF STEPS WITHIN THE SALARY SCHEDULE FOR THE POLICE PATROL OFFICER CLASSIFICATION, AND IMPLEMENTING A QUARTERMASTER SYSTEM

**SUMMARY:**

Attached is a proposed Ordinance which would amend the current and successor Collective Bargaining Agreement between the City of Pueblo and the International Brotherhood of Police Officers Local 537 as previously approved for 2024.

**PREVIOUS COUNCIL ACTION:**

Pursuant to Ordinance No. 9532 approved August 28, 2019, the City entered into a collective bargain agreement ("Agreement") with the Union for calendar year 2020. The Agreement granted the City the option to extend the Agreement for two successive one-year terms with a 2.75% increase in the salary schedule for 2021 and a 2.5% increase in the salary schedule for 2022.

Pursuant to Ordinance No. 9727 approved June 26, 2020, the parties amended and extended the Agreement and provided for no increase in the salary schedule during calendar year 2021. The amendment retained the City's right to extend or not to extend the Agreement for calendar years 2022 and 2023 at the rates previously agreed upon.

Pursuant to Ordinance Nos. 9942 (May 24, 2021) and 10183 (May 23, 2022), the City extended the Agreement for calendar years 2022 and 2023 at the rates previously agreed.

Pursuant to Ordinance No. 10211 (June 27, 2022) the City approved an amendment to the Agreement which provided for a 7% wage increase as opposed to a 2.5% wage increase in 2023 and which granted the City the option to extend the Agreement for one successive one-year term.

Pursuant to Ordinance No. 10469 (May 8, 2023) the City extended the Agreement for one calendar year, 2024 at the rate previously agreed (5.3% wage increase).

## **BACKGROUND:**

The City and the Union have been working cooperatively to make positive amendments to the Agreement. Several changes have been agreed to and will become effective pending City Council approval. The terms and conditions of the extended term of the Agreement as approved on May 8, 2023, shall be on the same terms and conditions currently agreed upon except for the following:

### **1. Amendment of 2023 Police Patrol Officer Salary Schedule**

The current salary schedule will be reduced from ten steps to eight steps. The first two steps of the current salary schedule will be eliminated with entry level hires beginning at the pay rate assigned currently to Step 3 of the salary schedule. Current incumbents will remain at their current step but within the new salary schedule, which will result in base pay increases. The amended salary schedule for Police Patrol Officer as outlined below will be effective July 1, 2023, if approved.

#### January 1, 2023, Pay Schedule – Police Patrol Officer

| <b>CLASS TITLE</b>    | <b>Entrance</b> | <b>Step 2</b> | <b>Step 3</b> | <b>Step 4</b> | <b>Step 5</b> | <b>Step 6</b> | <b>Step 7</b> | <b>Step 8</b> | <b>Step 9</b> | <b>Step 10</b> |
|-----------------------|-----------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|----------------|
| <b>(A) POLICE</b>     |                 |               |               |               |               |               |               |               |               |                |
| Police Patrol Officer | 4844.82         | 5340.26       | 5656.18       | 6138.04       | 6328.22       | 6426.51       | 6521.62       | 6619.95       | 6713.42       | 6899.79        |

#### July 1, 2023, Pay Schedule – Police Patrol Officer

| <b>CLASS TITLE</b>    | <b>Step 1</b> | <b>Step 2</b> | <b>Step 3</b> | <b>Step 4</b> | <b>Step 5</b> | <b>Step 6</b> | <b>Step 7</b> | <b>Step 8</b> |
|-----------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| <b>(A) POLICE</b>     |               |               |               |               |               |               |               |               |
| Police Patrol Officer | 5656.18       | 6138.04       | 6328.22       | 6426.51       | 6521.62       | 6619.95       | 6713.42       | 6899.79       |

### **2. Retention Bonus**

Each Police Patrol Officer, Police Corporal and Police Sergeant employed by the City on July 1, 2023, and covered by this Agreement shall be paid a retention bonus in the amount of Ten Thousand Dollars (\$10,000.00), less applicable tax withholdings, payable on the same date that such employee would normally receive the July monthly pay (July 31, 2023).

### **3. Quartermaster System**

Both parties recognize that the City is committed to implementing a Quartermaster system as soon as is practical. An official Request for Proposal process is currently underway through the City's Purchasing Department. This will necessitate a change to Article 21. Uniform and Maintenance of the Agreement as summarized below:

A. On or after January 1, 2024, each Police Officer covered by this Agreement shall be credited with Eight Hundred Dollars (\$800.00) annually ("Annual Credit") which will be placed into an account with the Police Department approved vendor for the purchase of uniforms and equipment as may be prescribed by the regulations of the Pueblo Police Department ("Required Uniforms"). The Annual Credit shall not be provided to any entry level Police Officer who has not successfully completed the Police Training Officer Program prior to the first of January of the year of the Annual Credit. The Department reserves the right to require officers to purchase a quantity of specific uniform items not to exceed Eight Hundred (\$800). Unused Annual Credit amounts will expire at the end of each year.

B. On or after July 2, 2023, and as soon as a quartermaster vendor is selected, each Police Officer covered by the Agreement shall be Four Hundred Dollars (\$400.00) ("2023 Credit") which will be placed into an account for the purchase of approved uniforms and equipment. Any unused portion of the 2023 Credit will expire December 31, 2023.

C. Police Officers hired after July 1, 2023, will have their initial Pueblo Police Academy required uniforms items purchased by the City, and prior to graduation, such officers' duty equipment will be issued at no cost to the employee.

D. On and after January 1, 2024, each Police Officer covered by the Agreement shall receive an annual allowance of Four Hundred Fifty Dollars (\$450.00) for drycleaning, minor maintenance and non-uniform clothing items based on the Police Officer's assignment. In the event such an employee leaves the service of the City during the ensuing year, the sum of Thirty-Seven Dollars and Fifty Cents (\$37.50) shall be deducted from the employee's final salary payment for each month remaining in that calendar year.

### **FINANCIAL IMPLICATIONS:**

The total estimated cost of all three cost components as amended in the agreement for FY 2023 is \$2,243,673. Specific costs are broken out below:

#### **Amendment of 2023 Police Patrol Officer Salary Schedule**

The cost to amend the salary scale for July 1, 2023, through December 31, 2023, is approximately \$ 227,253. Total annualized cost for the changes is estimated to be \$454,507 for current incumbents. If fully staffed, the cost annually will be approximately \$901,471. Funding for this change will come from the General Fund and the Public Safety Sales Tax fund.

### Retention Bonus

The one-time cost to provide the \$10,000 retention bonus to existing Police Officers covered by the Agreement is approximately \$1,831,620.

$$178 \text{ (incumbents)} \times \$10,000 + 2.9\% \text{ Medicare Cost} = \$1,831,620$$

The intent is to use ARPA funding to pay this retention bonus. A separate Resolution will be presented to City Council with respect to the retention bonus specifically as it relates to the use of ARPA funding. If such Resolution is not approved, the funding for this will come from the General Fund and the Public Safety Sales Tax Fund.

### Quartermaster System

The cost to provide the annual credits to Police Officers covered by the Agreement is approximately \$92,400 for the remainder of 2023. Annual costs are estimated at \$184,800.

This does not include any costs associated with program administration fees which may be incurred when the quartermaster vendor is identified. Funding for this change will come from the General Fund.

### **BOARD/COMMISSION RECOMMENDATION:**

None.

### **STAKEHOLDER PROCESS:**

International Brotherhood of Police Officers Local #537 has agreed to and is supportive of the amendments to the Agreement.

### **ALTERNATIVES:**

Retain the current Agreement and all terms as approved via ordinance No 10469 on May 8, 2023.

### **RECOMMENDATION:**

Approval of the Ordinance.

### **ATTACHMENTS:**

1. Signed IBPO

ORDINANCE NO. 10483

AN ORDINANCE APPROVING AN AMENDMENT TO THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS LOCAL 537 RELATING TO RETENTION BONUSES, REDUCTIONS OF STEPS WITHIN THE SALARY SCHEDULE FOR THE POLICE PATROL OFFICER CLASSIFICATION, AND IMPLEMENTING A QUARTERMASTER SYSTEM

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

SECTION 1.

The Amendment to the current and successor Collective Bargaining Agreement between the City of Pueblo and the International Brotherhood of Police Officers Local 537, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved and enacted as an Ordinance.

SECTION 2.

The Mayor is authorized to execute and deliver the Amendment in the name of the City and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 3.

The officers of the City are directed and 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 June 12, 2023.

Final adoption of Ordinance by City Council on June 26, 2023.



\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☒ Approved on June 29, 2023.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

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\_\_\_\_\_  
Mayor

**Action by City Council After Disapproval by the Mayor:**

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of \_\_\_\_\_, on \_\_\_\_\_
- ☐ Council action on \_\_\_\_\_ failed to override the Mayor's veto.

\_\_\_\_\_  
President of City Council

ATTEST

  
\_\_\_\_\_  
City Clerk



## AMENDMENT TO COLLECTIVE BARGAINING AGREEMENT

This Amendment to Collective Bargaining Agreement ("Amendment") is entered into this 24<sup>th</sup> day of May, 2023, by and between the International Brotherhood of Police Officers Local 537 ("Union") and Pueblo, a municipal corporation ("City").

WHEREAS, City and Union are parties to a collective bargaining agreement effective through December 31, 2024 (herein "Labor Agreement");

WHEREAS, the parties mutually agree to the amendment of the Labor Agreement according to the terms and conditions herein provided.

NOW THEREFOR, in consideration of the foregoing and mutual covenants contained herein, the parties agree as follows:

1. Effective July 1, 2023, the monthly pay rate for each step of the Police Patrol Officer classification shall be as follow:

The current salary schedule will be reduced from ten steps to eight steps. The first two steps of the current salary schedule will be eliminated with entry level hires beginning at the pay rate assigned currently to Step 3 of the salary schedule.

The reduction of steps within the salary schedule will necessitate the movement of existing incumbents into the new salary schedule. However, note that all step assignments will stay the same. Only the salary schedule itself is being adjusted as of July 1, 2023. For instance, if an incumbent is paid at Step 3 in the salary schedule in effect as of January 1, 2023, then he/she will remain at Step 3, but in the revised salary schedule as of July 1, 2023. There are currently no incumbents at either step 9 or 10 of the salary schedule in effect as of January 1, 2023. Police Patrol Officers impacted by this schedule change shall retain their current anniversary dates as they apply to the timing of any subsequent step increases granted.

### Salary Schedule Effective January 1, 2023

CITY OF PUEBLO SALARY SCHEDULE  
MONTHLY SALARY SCHEDULE -Police (NON-EXEMPT)  
Effective January 1, 2023

| CLASS TITLE           | Entrance | Step 2  | Step 3  | Step 4  | Step 5  | Step 6  | Step 7  | Step 8  | Step 9  | Step 10 |
|-----------------------|----------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| (A) POLICE            |          |         |         |         |         |         |         |         |         |         |
| Police Patrol Officer | 4844.82  | 5340.26 | 5656.18 | 6138.04 | 6328.22 | 6426.51 | 6521.62 | 6619.95 | 6713.42 | 6899.79 |

### Salary Schedule Effective July 1, 2023

**CITY OF PUEBLO SALARY SCHEDULE**  
**MONTHLY SALARY SCHEDULE -Police (NON-EXEMPT)**  
Effective July 1, 2023

| <b>CLASS TITLE</b>    | <b>Step 1</b> | <b>Step 2</b> | <b>Step 3</b> | <b>Step 4</b> | <b>Step 5</b> | <b>Step 6</b> | <b>Step 7</b> | <b>Step 8</b> |
|-----------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| <b>(A) POLICE</b>     |               |               |               |               |               |               |               |               |
| Police Patrol Officer | 5656.18       | 6138.04       | 6328.22       | 6426.51       | 6521.62       | 6619.95       | 6713.42       | 6899.79       |

Pursuant to Section 8-14(l) of the Charter of the City of Pueblo and upon approval of this Amendment by City Council, the Ordinance establishing the 2023 pay levels is amended consistent with the above Salary Schedule Effective July 1, 2023.

2. Each Police Officer employed by the City on July 1, 2023 and covered by this Agreement shall be paid a retention bonus in the amount Ten Thousand Dollars (\$10,000.00) payable on the same date that such employee would normally receive the July monthly pay ("Retention Bonus"). It is expressly stipulated, acknowledged and agreed that the Retention Bonus is an isolated and unique wage payment based upon the likely loss of Police Officers and substantiated by Union's survey and presentation at the April 24, 2023 City Council Work Session. The Retention Bonus shall have no precedential value with respect to establishing any past practice or future negotiations between the parties.

3. Article 21 of the Labor Agreement is amended to read as follows:

**ARTICLE 21. UNIFORM AND MAINTENANCE.**

21.1 On and after January 1, 2024, each Police Officer covered by this Agreement shall be credited with Eight Hundred Dollars (\$800.00) annually ("Annual Credit") which will be placed into an account with the Police Department approved vendor for the purchase of uniforms and equipment as may be prescribed by the regulations of the Police Department ("Required Uniforms"). The Annual Credit shall not be provided to any entry level Police Officer who has not successfully completed the Police Training Office Program prior to the first of January of the year of the Annual Credit. The Annual Credit shall not be available until February 1 of the year of the Annual Credit. The Department reserves the right to require officers to purchase a quantity of specific uniform items not to exceed Eight Hundred Dollars (\$800.00), depending on assignment, each year with this money. Repair and replacement of Required Uniforms shall be subject to regulations of the Police Department. Any unused portion of the annual credit shall expire at the end of the year of the Annual Credit.

21.2 On or after July 2, 2023 and as soon as a vendor is selected by City based on current Request for Proposal, each Police Officer covered by this Agreement shall be credited with Four Hundred Dollars (\$400.00) ("2023 Credit") which will be placed into an account with the Police Department approved vendor for the purchase of uniforms and equipment as may be prescribed by the Required Uniforms. Use of funds shall be subject

to the same limitation set forth in above Section 21.1. Any unused portion of the 2023 Credit shall expire December 31, 2023.

21.3 Police Officers hired after July 1, 2023, will have their initial Pueblo Police Academy required uniform items purchased by the City, and prior to graduation, such Officer's duty equipment will be issued at no cost to the employee.

21.4 On and after January 1, 2024, each Police Officer covered by this Agreement shall receive an annual allowance of Four Hundred Fifty Dollars (\$450.00) for drycleaning, minor maintenance, and non-uniform clothing items based on the Police Officer's assignment. In the event such employee leaves the service of the City during the ensuing year, the sum of Thirty Seven Dollars and Fifty Cents (\$37.50) shall be deducted from such employee's final salary payment for each month remaining in that calendar year.

4. This Amendment represents the entire agreement between the Parties with respect to its subject matter and supersedes all prior discussions or understandings that the parties may have with respect to same.

5. The person signing this Amendment on behalf of Union represent and warrant that they have the requisite power and authority to enter into, execute, and deliver this Amendment and that this Amendment is a valid and legally binding obligation of Union enforceable against Union in accordance with its terms.

Executed in Pueblo, Colorado as of the date first above written.

CITY OF PUEBLO

LOCAL 537, INTERNATIONAL  
BROTHERHOOD OF POLICE  
OFFICERS

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
President

ATTEST:  
\_\_\_\_\_  
City Clerk

ATTEST:  
\_\_\_\_\_



**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** June 26, 2023

**TO:** President Heather Graham and Members of City Council

**CC:** Mayor Nicholas A. Gradisar

**VIA:** Marisa Stoller, City Clerk

**FROM:** Marisa Pacheco, Director Human Resources

**SUBJECT:** AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2023 CLASSIFICATION AND PAY PLAN BY AMENDING THE PAY SCALE FOR POLICE PATROL OFFICER

**SUMMARY:**

Attached for consideration is an amended Pay Plan Ordinance reflecting the amendment of the salary schedule for the classification of Police Patrol Officer which would become effective July 1, 2023, if this ordinance is approved.

**PREVIOUS COUNCIL ACTION:**

On December 27, 2022, Ordinance No.10365 was approved by the City Council. This Ordinance provided the classification and pay plan for fiscal year 2023.

**BACKGROUND:**

In an effort to attract and retain high quality Police Patrol Officers, the City and International Brotherhood of Police Officers Local #537 have agreed to amend the salary schedule for the rank of Police Patrol Officer.

The salary schedule change accomplishes the removal of the two initial steps of the salary schedule, which will make the entrance salary rate for new hires much more competitive within the labor market.

Furthermore, existing Police Patrol Officers will receive base salary increases commensurate with their step position within the amended scale. Turnover statistics show that the City is losing Police Patrol Officers, most commonly within the first five years of employment. This scale adjustment is designed to serve as a retention incentive for those already employed.

**FINANCIAL IMPLICATIONS:**

The cost to amend the salary scale for July 1, 2023, through December 31, 2023, is approximately \$ 227,253. Total annualized cost for the changes is estimated to be \$454,507 for current incumbents. If all vacancies are filled, the total cost on an annual basis is estimated to be \$901,471. Funding for this change will come from the General Fund and the Public Safety Sales Tax Fund.

No additional funding is required for 2023 to accomplish this salary amendment as the department can absorb the full cost within the department's existing budget.

**BOARD/COMMISSION RECOMMENDATION:**

None.

**STAKEHOLDER PROCESS:**

International Brotherhood of Police Officers Local #537 has agreed to and is supportive of this change.

**ALTERNATIVES:**

Retain the current 2023 Police Patrol Officer salary schedule with no changes.

**RECOMMENDATION:**

Approval of the Ordinance.

**ATTACHMENTS:**

None

ORDINANCE NO. 10484

AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2023 CLASSIFICATION AND PAY PLAN BY AMENDING THE PAY SCALE FOR POLICE PATROL OFFICER

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

SECTION 1.

Section 6-5-16 (A) of Chapter 5, of Title VI, of the Pueblo Municipal Code referencing the Fiscal Year 2023 pay scale for the classification of Police Patrol Officer is amended and enacted as follows and shall become effective July 1, 2023:

**6-5-16. Schedule, classification, work week and monthly salary.**

The following shall constitute:

A. The monthly pay range for the classification of Police Patrol Officer

| <i>CLASS TITLE</i>      | <i>Entrance</i> | <i>Step 2</i> | <i>Step 3</i> | <i>Step 4</i> | <i>Step 5</i> | <i>Step 6</i> | <i>Step 7</i> | <i>Step 8</i> | <i>Step 9</i> | <i>Step 10</i> |
|-------------------------|-----------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|----------------|
| <b>(A) POLICE</b>       |                 |               |               |               |               |               |               |               |               |                |
| [ Police Patrol Officer | 4844.82         | 5340.26       | 5656.18       | 6138.04       | 6328.22       | 6426.51       | 6521.62       | 6619.95       | 6713.42       | 6899.79 ]      |
| Police Patrol Officer   | 5656.18         | 6138.04       | 6328.22       | 6426.51       | 6521.62       | 6619.95       | 6713.42       | 6899.79       |               |                |

SECTION 2.

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 the transactions described therein.

**SECTION 3.**

This Ordinance shall become effective July 1, 2023, following the date of final action by the Mayor and City Council.

**Action by City Council:**

Introduced and initial adoption of Ordinance by City Council on June 12, 2023.

Final adoption of Ordinance by City Council on June 26, 2023.



\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

☒ Approved on June 29, 2023.

☐ Disapproved on \_\_\_\_\_ based on the following objections:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



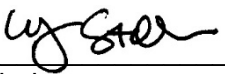
\_\_\_\_\_  
Mayor

**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