



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

**MONDAY, AUGUST 14, 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 Phil Lucero, Praise Assemble

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

E. SPECIAL RECOGNITIONS

E1 Certificate of Recognition: Haley Rogers, Emergency Services Dispatcher - Pueblo Police Department

E2 Proclamation Presentation: "Pueblo LGBTQ+ Pride Day: August 20, 2023" - Tommy Farrell, President - Southern Colorado Equality Alliance

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 July 24, 2023, as distributed.

J1 Minutes City Council Meeting July 24, 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 ratifying an emergency construction contract in the amount of \$149,743.81 with Parker Excavating, Inc. for emergency sanitary sewer point repair at 2820 Aster St, Project No. 20-059 (WWAN03) and approving the purchasing agent's execution of the same
- M2 A Resolution authorizing the transfer of budgeted and appropriated funds in the amount of \$135,000 from Project No. CI2302 – Fire Record Management System to the Fire Department's capital budget for Computer equipment > 2500
- M3 A Resolution ratifying an emergency construction contract in the amount of \$112,044.26 to Parker Excavating, Inc., for Project No. 23-099, Fountain Creek Trail Emergency Repairs, and approving the Purchasing Agent's execution of same
- M4 A Resolution ratifying an emergency construction contract in the amount of \$92,166.47 with Parker Excavating, Inc. for emergency sanitary sewer point repair at 1701 E. 12th Street, Project No. 20-059 (WWAN03) and approving the purchasing agent's execution of same
- M5 A Resolution ratifying an emergency construction contract in the amount of \$73,304.58 with Parker Excavating, Inc. for emergency sanitary sewer point repair at 715 E. B Street, Project No. 20-059 (WWAN03) and approving the purchasing agent's execution of the same
- M6 A Resolution awarding Contract Amendment No. 1 in the amount of \$30,214.89 to Merriman Land Works DBA Flat and Fancy, for Project No. 22-094, Peakview Concrete Repairs and authorizing the Purchasing Agent to execute same
- M7 A Resolution ratifying an emergency construction contract in the amount of \$5,792.13 with Parker Excavating, Inc. for emergency sanitary sewer point repair at 1900 W 31st Street, Project No. 20-059 (WWAN03) and approving the purchasing agent's execution of the same
- M8 A Resolution ratifying an emergency construction contract in the amount of \$5,091.00 with Parker Excavating, Inc. for emergency sanitary sewer point repair at 1612 E. Abriendo Avenue, Project No. 20-059 (WWAN03) and approving the purchasing agent's execution of the same
- M9 A Resolution ratifying an emergency construction contract in the amount of \$4,563.43 with Parker Excavating, Inc. for emergency sanitary sewer point repair at 1402 E. 9th Street, Project No. 20-059 (WWAN03) and approving the purchasing agent's execution of the same
- M10 A Resolution ratifying an emergency construction contract in the amount of \$3,486.00 with Parker Excavating, Inc. for emergency sanitary sewer point repair at 538 Hewitt Street, Project No. 20-059 (WWAN03) and approving the purchasing agent's execution of the same
- M11 A Resolution amending Resolution No. 15237 to update the account number designated to pay costs associated with Project 23-067, Asphalt Improvements - Prairie Avenue (Pueblo Boulevard to Mesa Avenue)
- M12 A Resolution finding substantial compliance with Colorado Revised Statutes Section 31-12-107 (1) of the petition for the 10.74-acre area commonly known as the Dorcy Community Housing Annexation, and setting a public hearing before the City Council in council chambers on September 25, 2023 in accordance with Colorado Revised Statutes, Sections 31-12-104 and 31-12-105 establishing eligibility for annexation under the

Municipal Annexation Act of 1965

- M13 A Resolution establishing an approved list of contractors to perform emergency storm sewer point repairs during calendar years 2023 through 2026 and authorizing the purchasing agent to execute the same
- M14 A Resolution setting the date, time and place for the hearing on any objections to an abatement assessment as September 15, 2023 at 9:00 a.m. in City Council Chambers and directing the Mayor to appoint a hearings officer
- M15 A Resolution authorizing the City of Pueblo to apply for a 2023 Edward Byrne Memorial Justice Assistance Grant (JAG) and approving a Memorandum of Understanding concerning receipt and disbursement of funds from said grant, authorizing the Mayor to execute same and ratifying his prior signature thereto
- M16 A Resolution approving compensation with respect to a Legal Services Agreement with Hoffmann, Parker, Wilson & Carberry, P.C.
- M17 A Resolution confirming the appointment by the Mayor of Don Bruestle, Sharon Campbell, Mary Agnes Leonard, and Robert Long to serve a four-year term expiring August 31, 2027 on the Pueblo ADA Advisory Committee
- M18 A Resolution confirming the appointment by the Mayor of Joe Latino to the El Centro del Quinto Sol Recreation Center Board of Directors
- M19 A Resolution confirming the appointment by the Mayor of Guy Chabot to complete a four-year term expiring January 1, 2026 on the Historic Preservation Commission

N. ORDINANCES – FIRST PRESENTATION

- N1 An Ordinance approving and accepting Airport Improvement Program (AIP) Grant Agreement No. 3-08-0046-048-2023 from the United States of America acting through the Federal Aviation Administration for funds in the amount of \$9,316,522 for costs related to the Rehabilitation of Runway 8R/26L and Taxiway A2 Removal (Phase 2 – Construction) at the Pueblo Memorial Airport, budgeting and appropriating \$9,316,522 to Project No. AP2205 - Rehab of Runway 8R-26L Design and Construction, and authorizing the mayor to execute same
- N2 An Ordinance approving a Professional Engineering Services Agreement between the City of Pueblo, a Colorado Municipal Corporation, and Dibble and Associates Consulting Engineers, Inc., for the construction administration for the rehabilitation of Runway 8R/26L and Taxiway A2 Removal (Phase 2 – Construction) project, and authorizing the mayor to execute same
- N3 An Ordinance budgeting and appropriating funds in the amount of \$201,869 to project PS2203 for the Nurse Navigation Program
- N4 An Ordinance approving and accepting a Colorado Resource for Emergency and Trauma Education (CREATE) grant establishing project No. PS2311 for Emergency and Trauma grant, and budgeting and appropriating grant funds in the amount of \$17,950, which includes a fifty percent cost match of \$17,950 for the purposes authorized by the grant agreement
- N5 An Ordinance transferring \$10,000 from account project CI2204, Street Rehabilitation to CI2205, Fire 3 Stations - Arch/Design to fund additional design effort for the extension of a water main in Jerry Murphy Road, budgeting and appropriating funds in the amount of \$10,000 and authorizing the Mayor to execute same
- N6 An Ordinance approving a Deposit Agreement between Pioneer West Homes, LLC., a

Colorado limited liability company, and the City of Pueblo, a Colorado Municipal Corporation, relating to the collection of a deposit for the installation of public improvements associated with the property at 55 Aberdeen Bluff, authorizing execution of said agreement by the Mayor, and providing procedures for return of the deposit and previously collected lot fees after installation and acceptance of the required public improvements is completed

- N7 An Ordinance amending zoning restrictions to rezone 2511 East 4th Street and three parcels located north of 2511 East 4th Street from B-4, R-2, and S-4 to BP, Business Park Zone District
- N8 An Ordinance amending zoning restrictions to rezone Lot 3, Block 1, Trinity Subdivision from B-3, Highway and Arterial Business District to I-2, Industrial Zone District
- N9 An Ordinance designating 314 West 18th Street, the Edward Teller House, as a Local Historic Landmark
- N10 An Ordinance amending the FY 2023 Staffing Ordinance by converting a vacant Civil Engineer-Construction position within the Public Works Department to a new classification of Construction Manager
- N11 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 establishing the pay scale for Construction Manager and abolishing the pay scale for Civil Engineer-Construction
- N12 An Ordinance approving and enacting the Collective Bargaining Agreement between the City of Pueblo and the International Association of Fire Fighters Local No. 3 commencing January 1, 2024 and authorizing the Mayor to execute same.
- N13 An Ordinance amending Section 12 of Chapter 3 of Title XI of the Pueblo Municipal Code for the purpose of eliminating the distance restriction contained in Section 44-3-313(1)(d)(I), C.R.S., with respect to Lodging and Entertainment Liquor Licenses on premises located in the Thunder Village Business District near the campus of Colorado State University - Pueblo
- N14 An Ordinance approving and accepting a cooperative agreement between the City of Pueblo on behalf of the Pueblo Police Department, the Pueblo County Department of Human Services, the Pueblo County Sheriff's Office, and the 10th Judicial District Attorney's Office with respect to the investigation of child abuse and neglect cases, and authorizing the Mayor to execute same

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 August 28, 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 Memorial Hall in the amount of \$6,626 to sponsor the Time Is Now Benefit Show on Saturday, October 28, 2023 at Memorial Hall
- Q2 A Resolution authorizing payment from the Council Contingencies account in the 2023 general fund budget to the Pueblo Chamber in the amount of \$2,500 to support the 3rd Annual Pueblo Chile Balloon Fest on September 22-24, 2023

- Q3 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 \$2,000 to sponsor the Fiesta Day Parade on September 3, 2023 at 10 am
- Q4 A Resolution authorizing payment from the Council Contingencies account in the 2023 general fund budget to the Pueblo Police Activities League (PPAL) in the amount of \$2,000 to sponsor the Roncalli Middle School and Risley Middle School football team's equipment
- Q5 A Resolution confirming the appointment of George A. Hypolite to the position of City Attorney

R. ORDINANCES – FINAL PRESENTATION

- R1 An Ordinance (1) approving and authorizing the Mayor to execute an Employment Agreement between the City of Pueblo, a Colorado Municipal Corporation, and Fomcore, a Michigan Limited Liability Company, relating to a job creating capital improvement project and (2) approving and authorizing the Mayor to execute a Real Property Conveyance Agreement and related Quitclaim Deed between the City of Pueblo, a Colorado Municipal Corporation, and the Pueblo Development Foundation, a Colorado Nonprofit Corporation, relating to a parcel of improved land located in the Pueblo Minnequa Industrial Park and (3) transferring six million five hundred thousand dollars (\$6,500,000) from the 1992-2026 Sales and Use Tax Capital Improvement Projects Fund for the purpose of said Conveyance Agreement and (4) transferring one million seven hundred and forty thousand dollars (\$1,740,000) from the 1992-2026 Sales And Use Tax Capital Improvement Projects Fund for the purpose of the City of Pueblo's compliance with said Employment Agreement - *Introduced July 24, 2023 by Councilor Vicente Martinez Ortega*
- R2 An Ordinance approving and authorizing the Mayor to sign a Subrecipient Agreement between the City of Pueblo, a Colorado Municipal Corporation and United Way of Pueblo County, Inc., a Colorado Nonprofit Corporation, as authorized by Section 603 of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6 and authorizing the payment of six hundred thousand dollars (\$600,000) from Project No. CI2113 - American Rescue Plan Act, for purposes thereof - *Introduced July 24, 2023 by Councilor Vicente Martinez Ortega*
- R3 An Ordinance approving an agreement to buy and sell real estate between the City of Pueblo, a Colorado Municipal Corporation, and Pueblo Urban Renewal Authority, a Public Body Corporate and Politic of the State of Colorado, relating to the sale of property at 612 E. 2nd Street, Pueblo, Colorado and 618 E. 2nd Street, Pueblo, Colorado for the amount of ten thousand, eight hundred, forty-six dollars and twenty-five cents (\$10,846.25), and authorizing the Mayor to execute same - *Introduced July 24, 2023 by Councilor Vicente Martinez Ortega*
- R4 An Ordinance amending zoning restrictions to rezone land located east of the Village Circle cul-de-sac from O-1, Neighborhood Office District to R-4, Mixed Residential District - *Introduced July 24, 2023 by Councilor Vicente Martinez Ortega*
- R5 An Ordinance approving a Special Area Plan for the DFB Subdivision - *Introduced July 24, 2023 by Councilor Vicente Martinez Ortega*
- R6 An Ordinance approving the DFB Subdivision, A Special Area Plan - *Introduced July 24, 2023 by Councilor Vicente Martinez Ortega*
- R7 An Ordinance approving the Medal of Honor Subdivision - *Introduced July 24, 2023 by Councilor Vicente Martinez Ortega*
- R8 An Ordinance approving an intergovernmental agreement between the City of Pueblo, a Colorado Municipal Corporation, and Pueblo School District No. 60, relating to the

management of a public, educational, and governmental channel on the Comcast Cable System in the City of Pueblo, and authorizing the Mayor to execute the same - *Introduced July 24, 2023 by Councilor Vicente Martinez Ortega*

- R9 An Ordinance approving two intergovernmental agreements between the City of Pueblo, a Colorado Municipal Corporation, and the State of Colorado, Department of Higher Education, relating to the management of two public, educational, and governmental channels on the Comcast Cable System in the City of Pueblo and providing for the production of weekly council meetings, and authorizing the Mayor to execute the same - *Introduced July 24, 2023 by Councilor Vicente Martinez Ortega*
- R10 An Ordinance approving a Public Art Donation Agreement between Latka Studios, LLC., a Colorado Limited Liability Company and the City of Pueblo, a Colorado Municipal Corporation, relating to the donation of artwork for public enjoyment and authorizing execution thereof by the Mayor - *Introduced July 24, 2023 by Councilor Vicente Martinez Ortega*
- R11 An Ordinance approving and authorizing the Mayor to execute an Intergovernmental Agreement between the City of Pueblo, a Colorado Municipal Corporation, and the County of Pueblo, a Political Subdivision of the State of Colorado, relating to the 2023 General Municipal Election - *Introduced July 24, 2023 by Councilor Vicente Martinez Ortega*
- R12 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 question establishing an additional one and one-half percent lodger's tax rate for providing accessible and affordable childcare programs for working families in the City of Pueblo - *Introduced July 24, 2023 by Councilor Vicente Martinez Ortega*

S. EMERGENCY ORDINANCES

- S1 An Emergency Ordinance transferring \$100,000 from the unappropriated fund balance of the general fund to CI2205, budgeting and appropriating funds in the amount of \$100,000 and authorizing the Mayor to execute same
- S2 An Emergency Ordinance approving and accepting a release of claim and indemnity agreement between the City of Pueblo, a Colorado Municipal Corporation, and the BNSF Railway Corporation, for a training exercise that will occur on August 17, 2023

T. ADJOURN



**REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS – CITY HALL
#1 CITY HALL PLACE
MONDAY, JULY 24, 2023 - 7:00 PM
MINUTES**

A. CALL TO ORDER

President Graham called the meeting to order at 7:06 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.

Council Members Present via Zoom: Lori Winner.

Council Members Absent: None.

Administrative Staff Members Present: Chief of Staff Laura Solano, Acting City Attorney Bob Jagger, City Clerk Marisa Stoller.

E. SPECIAL RECOGNITIONS

E1 PROCLAMATION PRESENTATION: "PUEBLO COUNTY FARMERS MARKET WEEK: AUGUST 6-12, 2023," - ANGELIKA SUNIE, PUEBLO FARMERS MARKET

E2 PROCLAMATION PRESENTATION: "PURPLE HEART RECOGNITION DAY: AUGUST 7, 2023," - KAREN LINDQUIST, MILITARY ORDER OF THE PURPLE HEART - CHAPTER 423; STEVEN ZERGER, PURPLE HEART RECIPIENT; BOB PEREZ, PURPLE HEART RECIPIENT; MANDEL RELIFORD, PURPLE HEART RECIPIENT

F. PUBLIC FORUM

- Ted Freeman - Corruption
- Elvis Martinez - Wellness Center
- J. Doug Ohmans - Proposed Jail
- Justin Salazar - Lodging Tax

- Chris Crozer - Lodging Tax

G. COUNCIL MEMBER AND MAYOR COMMENTARY

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

H. REVIEW OF AGENDA

The agenda was reviewed page by page.

I. APPROVAL OF AGENDA

Councilor Martinez, seconded by Councilor Martinez Ortega, moved to move item N5 to the regular agenda 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 7-0.

J. READING AND APPROVAL OF MINUTES

J1 MINUTES FROM CITY COUNCIL MEETING JULY 10, 2023

Councilor Martinez Ortega, seconded by Councilor Martinez, moved to dispense with the reading and approve the Minutes of the Regular Meeting dated **July 10, 2023** as distributed.

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

K. CONSENT AGENDA

L. COMMUNICATIONS

L1 MINUTES OF THE PLANNING AND ZONING COMMISSION REGULAR MEETING FOR 6/14/2023

M. RESOLUTIONS

M1 A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$586,620.00 TO K.R. SWERDFEGER CONSTRUCTION, INC., AND SETTING FORTH \$117,324 FOR CONTINGENCIES, FOR PROJECT NO. 23-090 (WWAN05) 2023 MANHOLE REHABILITATION PROJECT AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE THE SAME

This Resolution was assigned as 15308.

M2 A RESOLUTION TRANSFERRING \$138,000 FROM ACCOUNT PROJECT NO. SW1907, 2019 PROJECTS TO BE DETERMINED AND \$89,000 FROM ACCOUNT PROJECT NO. SW9999, PROJECTS TO BE DETERMINED INTO ACCOUNT PROJECT NO. SW2101, STORM SYSTEM UPGRADE - ILLINOIS AVENUE AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

This Resolution was assigned as 15309.

- M3 A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF UP TO ONE HUNDRED THIRTEEN THOUSAND, ONE HUNDRED AND NINETY DOLLARS (\$113,190) FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT FOR THE PURPOSE OF GRANTING A ONE-TIME \$10,000 RETENTION BONUS TO EXISTING SWORN POLICE COMMAND STAFF MEMBERS AS AUTHORIZED BY SECTION 603(C)(1)(C) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.**

This Resolution was assigned as 15310.

- M4 A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$34,410 WITH RUSS GRADING & EXCAVATING LLC., FOR EMERGENCY STORM SEWER POINT REPAIR LOCATED AT A STORMWATER DETENTION FACILITY NEAR THE INTERSECTION OF INTERSTATE 25 AND DILLON DRIVE AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME**

This Resolution was assigned as 15311.

- M5 A RESOLUTION RATIFYING AN EMERGENCY CONTRACT AMENDMENT NO. 1 IN THE AMOUNT OF \$20,417.18 WITH GWP INC. DBA COLORADO BOILER, AND SETTING FORTH \$4,083.44 FOR CONTINGENCIES, FOR PROJECT NO. 22-072 (WWAN04) REFURBISHMENT OF BOILER #33 FOR THE JAMES R. DILORIO WATER RECLAMATION FACILITY (WRF) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME**

This Resolution was assigned as 15312.

- M6 A RESOLUTION TRANSFERRING \$3,158.75 FROM PROJECT NO. LT2001 INTO PROJECT NO. LT1501 CITY PARK RENOVATIONS FOR ADDITIONAL EXPENSES ASSOCIATED WITH THE CITY PARK POOL PARKING LOT PROJECT**

This Resolution was assigned as 15313.

- M7 A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-23-23) TO M3 REAL ESTATE, LLC., FOR THE PURPOSE OF INSTALLING A LANDSCAPE BUFFER IN THE AREA 10.5 FEET OF THE THORNBERRY LANE RIGHT-OF-WAY, NORTH OF LOT #4 BLOCK #4 OF THE SOUTH PRAIRIE SUBDIVISION 2ND FILING, AND 5.5 FEET OF THE BROADMOOR ROAD RIGHT-OF-WAY EAST OF THE AFOREMENTIONED LOT**

This Resolution was assigned as 15314.

- M8 A RESOLUTION AUTHORIZING THE ISSUANCE OF REVOCABLE PERMIT (REV-23-27) TO THE CITY OF PUEBLO POLICE DEPARTMENT FOR THE TEMPORARY USE OF THE PUBLIC RIGHT-OF-WAY ON ALAN HAMEL AVENUE BETWEEN MAIN STREET AND SOUTH SANTA FE AVENUE AUGUST 04, 2023, THROUGH AUGUST 05, 2023, FOR THE PURPOSE OF THEIR ANNUAL NEIGHBORHOOD SAFETY NIGHT**

This Resolution was assigned as 15315.

- M9 A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT**

(REV-23-28) TO PUEBLO COMMUNITY COLLEGE FOR THE USE OF THE PUBLIC RIGHT-OF-WAY ALONG ORMAN AVENUE BETWEEN ARTHUR STREET AND MARILYN PLACE TO HOST ITS ANNUAL PANTHER FEST EVENT ON AUGUST 05, 2023

This Resolution was assigned as 15316.

M10 A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-23-29) TO PUEBLO COMMUNITY COLLEGE FOR THE USE OF THE PUBLIC RIGHT-OF-WAY ALONG ORMAN AVENUE BETWEEN ARTHUR STREET AND MARILYN PLACE TO HOST ITS ANNUAL WELCOME BACK TO CAMPUS EVENT ON MONDAY, AUGUST 21, 2023

This Resolution was assigned as 15317.

M11 A RESOLUTION AWARDED CONTRACT AMENDMENT NO. 1 IN THE AMOUNT OF \$46,802 TO CEDAR RIDGE LANDSCAPE, INC., FOR PROJECT NO. 23-088, CONCRETE IMPROVEMENTS - NORTHERN AVENUE PHASE 2, SETTING FORTH \$15,000 FOR CONTINGENCIES ON THE ADDITIONAL WORK AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

This Resolution was assigned as 15318.

M12 A RESOLUTION TO AMEND RESOLUTION NO. 15274 TO CORRECT THE ASSIGNED FINANCE PROJECT NUMBERS FROM WHICH FUNDS WILL BE PAID FOR PROJECT NO. 23-064, MISCELLANEOUS CONCRETE IMPROVEMENTS (CDBG)

This Resolution was assigned as 15319.

M13 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF ALEXIS ELLIS TO SERVE A THREE-YEAR TERM EXPIRING DECEMBER 31, 2025 ON THE COMMUNITY COMMISSION ON HOUSING AND HOMELESSNESS

This Resolution was assigned as 15320.

M14 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF SETH ROCCO TO COMPLETE A THREE-YEAR TERM EXPIRING NOVEMBER 1, 2025 ON THE STREETScape ADVISORY COMMITTEE

This Resolution was assigned as 15321.

N. ORDINANCES – FIRST PRESENTATION

N1 AN ORDINANCE (1) APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND FOMCORE, A MICHIGAN LIMITED LIABILITY COMPANY, RELATING TO A JOB CREATING CAPITAL IMPROVEMENT PROJECT AND (2) APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A REAL PROPERTY CONVEYANCE AGREEMENT AND RELATED QUITCLAIM DEED BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE PUEBLO DEVELOPMENT FOUNDATION, A COLORADO NONPROFIT CORPORATION, RELATING TO A PARCEL OF IMPROVED LAND LOCATED IN THE PUEBLO MINNEQUA INDUSTRIAL PARK AND (3) TRANSFERRING

SIX MILLION FIVE HUNDRED THOUSAND DOLLARS (\$6,500,000) FROM THE 1992-2026 SALES AND USE TAX CAPITAL IMPROVEMENT PROJECTS FUND FOR THE PURPOSE OF SAID CONVEYANCE AGREEMENT AND (4) TRANSFERRING ONE MILLION SEVEN HUNDRED AND FORTY THOUSAND DOLLARS (\$1,740,000) FROM THE 1992-2026 SALES AND USE TAX CAPITAL IMPROVEMENT PROJECTS FUND FOR THE PURPOSE OF THE CITY OF PUEBLO'S COMPLIANCE WITH SAID EMPLOYMENT AGREEMENT

- N2 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND UNITED WAY OF PUEBLO COUNTY, INC., A COLORADO NONPROFIT CORPORATION, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF SIX HUNDRED THOUSAND DOLLARS (\$600,000) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF**
- N3 AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE LAND LOCATED EAST OF THE VILLAGE CIRCLE CUL-DE-SAC FROM O-1, NEIGHBORHOOD OFFICE DISTRICT TO R-4, MIXED RESIDENTIAL DISTRICT**
- N4 AN ORDINANCE APPROVING THE DFB SUBDIVISION, A SPECIAL AREA PLAN**
- N6 AN ORDINANCE APPROVING THE MEDAL OF HONOR SUBDIVISION**
- N7 AN ORDINANCE APPROVING A PUBLIC ART DONATION AGREEMENT BETWEEN LATKA STUDIOS, LLC., A COLORADO LIMITED LIABILITY COMPANY AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, RELATING TO THE DONATION OF ARTWORK FOR PUBLIC ENJOYMENT AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR**
- N8 AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND PUEBLO SCHOOL DISTRICT NO. 60, RELATING TO THE MANAGEMENT OF A PUBLIC, EDUCATIONAL, AND GOVERNMENTAL CHANNEL ON THE COMCAST CABLE SYSTEM IN THE CITY OF PUEBLO, AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME**
- N9 AN ORDINANCE APPROVING TWO INTERGOVERNMENTAL AGREEMENTS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, DEPARTMENT OF**

HIGHER EDUCATION, RELATING TO THE MANAGEMENT OF TWO PUBLIC, EDUCATIONAL, AND GOVERNMENTAL CHANNELS ON THE COMCAST CABLE SYSTEM IN THE CITY OF PUEBLO AND PROVIDING FOR THE PRODUCTION OF WEEKLY COUNCIL MEETINGS, AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

N10 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE COUNTY OF PUEBLO, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO, RELATING TO THE 2023 GENERAL MUNICIPAL ELECTION

N11 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 QUESTION ESTABLISHING AN ADDITIONAL ONE AND ONE-HALF PERCENT LODGER'S TAX RATE FOR PROVIDING ACCESSIBLE AND AFFORDABLE CHILDCARE PROGRAMS FOR WORKING FAMILIES IN THE CITY OF PUEBLO

N12 AN ORDINANCE APPROVING AN AGREEMENT TO BUY AND SELL REAL ESTATE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND PUEBLO URBAN RENEWAL AUTHORITY, A PUBLIC BODY CORPORATE AND POLITIC OF THE STATE OF COLORADO, RELATING TO THE SALE OF PROPERTY AT 612 E. 2ND STREET, PUEBLO, COLORADO AND 618 E. 2ND STREET, PUEBLO, COLORADO FOR THE AMOUNT OF TEN THOUSAND, EIGHT HUNDRED, FORTY-SIX DOLLARS AND TWENTY-FIVE CENTS (\$10,846.25), AND AUTHORIZING THE MAYOR TO EXECUTE SAME

O. APPROVAL OF CONSENT AGENDA

Councilor Martinez Ortega, seconded by Councilor Flores, moved to file the minutes from the Planning & Zoning Commission, approve all Resolutions Set Forth in the Consent Agenda, Pass the Ordinances of the Consent Agenda, Setting the Public Hearings for August 14, 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 Passed 7-0.

P. REGULAR AGENDA

Q. RESOLUTIONS

Q1 A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO GLOBAL MEDICAL RESPONSE, DBA AMERICAN MEDICAL RESPONSE

**PUEBLO, IN THE AMOUNT OF \$1,000 TO SPONSOR THE SAFETY JAM
EVENT ON SATURDAY, JUNE 3, 2023**

A staff report and detailed review of the Resolution was given by Laura Solano, Chief of Staff.

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 15322.

R. ORDINANCES – FINAL PRESENTATION

**N5 AN ORDINANCE APPROVING A SPECIAL AREA PLAN FOR THE DFB
SUBDIVISION**

Removed from Consent Agenda.

A staff report was given by Scott Hobson, Acting Director of Planning & Community Development.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to pass the ordinance on first reading, setting the Public Hearing for August 14, 2023, and ordered the Ordinance to be published BY TITLE.

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

**R1 AN ORDINANCE APPROVING AND ACCEPTING AIRPORT
INFRASTRUCTURE GRANT (AIG) AGREEMENT NO. 3-08-0046-049-2023
FROM THE UNITED STATES OF AMERICA ACTING THROUGH THE FEDERAL
AVIATION ADMINISTRATION FOR FUNDS IN THE AMOUNT OF \$571,290 TO
RECONSTRUCT RUNWAY 8R-26L LIGHTING AND THE AIRFIELD LIGHTING
CONTROL AND MONITOR SYSTEM (ALCMS) AS PART OF THE
REHABILITATION OF RUNWAY 8R-26L AND TAXIWAY A2 REMOVAL
PROJECT, BUDGETING AND APPROPRIATING \$571,290 TO PROJECT NO.
AP2205, AND AUTHORIZING THE MAYOR TO EXECUTE SAME**

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

PUBLIC HEARING:

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

Councilor 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 10508.

R2 AN ORDINANCE APPROVING AND ACCEPTING AN OZONE SEASON TRANSIT GRANT, AWARD NO. OSTG2023-04, AND APPLICABLE CONDITIONS PERTAINING THERETO, BETWEEN THE CITY OF PUEBLO AND THE COLORADO ASSOCIATION OF TRANSIT AGENCIES, ESTABLISHING PROJECT NO. PT2301, BUDGETING AND APPROPRIATING FUNDS NOT TO EXCEED \$414,898.85 INTO PROJECT NO. PT2301, AND RATIFYING THE MAYOR'S SIGNATURE OF THE GRANT AGREEMENT

A staff report and detailed review of the Ordinance was given by Ben Valdez, Director of Transportation.

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 10509.

R3 AN ORDINANCE APPROVING AN INSTRUMENT OF RELEASE BETWEEN THE UNITED STATES OF AMERICA AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, FOR THE RELEASE OF LOT 12 IN THE PUEBLO MEMORIAL AIRPORT INDUSTRIAL PARK SUBDIVISION AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

PUBLIC HEARING:

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

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

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

This Ordinance was assigned as 10510.

R4 AN ORDINANCE APPROVING A DEFERRED IMPROVEMENTS AGREEMENT BETWEEN BRICK SOLID INVESTMENTS, LLC., A COLORADO LIMITED LIABILITY COMPANY, AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, RELATING TO THE CONSTRUCTION OF PUBLIC IMPROVEMENTS INCIDENTAL TO A REARRANGEMENT OF PROPERTY BOUNDARIES AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

A staff report and detailed review of the Ordinance was given by Charles Roy, Deputy 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 10511.

R5 AN ORDINANCE APPROVING A PUBLIC ART DONATION AGREEMENT BETWEEN ERIC MCCUE AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, RELATING TO THE DONATION OF ARTWORK FOR PUBLIC ENJOYMENT AS PART OF THE PUEBLO HISTORY AND ARTWALK PROJECT AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

A staff report and detailed review of the Ordinance was given by Charles Roy, Deputy 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 10512.

R6 AN ORDINANCE APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF PUEBLO, THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO MONITOR FOR SARS-COV-2 AND OTHER PATHOGENS OF CONCERN AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

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 **10513.**

R7 AN ORDINANCE CHANGING THE STREET NAME OF SUNFLOWER DRIVE TO WINECUP DRIVE

A staff report and detailed review of the Ordinance was given by Scott Hobson, Acting Director of Planning & Community Development. Mr. Hobson requested that the Planning & Zoning documents for this item, Case #SNC 2301 dated June 14, 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 **10514.**

R8 AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE PUEBLO ICEHOUSE, PLANNED UNIT DEVELOPMENT TO WATERTOWER PLACE, PLANNED UNIT DEVELOPMENT

A staff report and detailed review of the Ordinance was given by Scott Hobson, Acting Director of Planning & Community Development. Mr. Hobson requested that the Planning & Zoning documents for this item, Case #Z-2104 dated June 14, 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 **10515.**

R9 AN ORDINANCE APPROVING AND ACCEPTING A GRANT FUNDING AGREEMENT AND ALL APPLICABLE CONDITIONS PERTAINING THERETO FROM THE COLORADO AUTO THEFT PREVENTION AUTHORITY ("CATPA") RELATING TO THE BEAT AUTO THEFT THROUGH LAW ENFORCEMENT ("BATTLE") TEAM, ESTABLISHING PROJECT NO. PS2307, BUDGETING AND APPROPRIATING FUNDS TO PROJECT NO. PS2307, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

A staff report and detailed review of the Ordinance was given by Deputy Chief James

Martin.

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 **10516**.

R10 AN ORDINANCE APPROVING AND ACCEPTING A GRANT AGREEMENT AND APPLICABLE CONDITIONS PERTAINING THERETO WITH THE STATE OF COLORADO DEPARTMENT OF LAW PEACE OFFICER STANDARDS AND TRAINING (POST), ESTABLISHING PROJECT NUMBER PS2306, AUTHORIZING THE MAYOR TO EXECUTE SAME, AND RATIFYING HIS PRIOR SIGNATURE THERETO

A staff report and detailed review of the Ordinance was given by Deputy Chief James Martin.

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 **10517**.

R11 AN ORDINANCE AMENDING ORDINANCE NO. 10481 TO UPDATE THE ASSIGNED FUNDING FROM CI2321 TO \$2,500 FROM CITY COUNCIL CONTINGENCIES AND \$2,500 FROM MAYOR'S CONTINGENCIES

A staff report and detailed review of the Ordinance was given by Alexandria Romero, Director of Finance.

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 **10518**.

S. EXECUTIVE SESSION

S1 CONFERENCE WITH CITY ATTORNEY

CONFERENCE WITH CITY ATTORNEY TO DISCUSS THE PURCHASE, ACQUISITION, LEASE, TRANSFER, OR SALE OF REAL, PERSONAL, OR OTHER PROPERTY INTEREST UNDER C.R.S. SECTION 24 6 402(4)(A), AND FOR THE PURPOSE OF DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS, DEVELOPING STRATEGY FOR NEGOTIATIONS, AND/OR INSTRUCTING NEGOTIATORS, UNDER C.R.S. SECTION 24 6 402(4)(E). THE FOLLOWING ADDITIONAL DETAILS ARE PROVIDED FOR IDENTIFICATION PURPOSES: PROPOSED ARPA AGREEMENT AND RELATED REAL PROPERTY ISSUE

Councilor Atencio, seconded by Councilor Martinez Ortega, moved to convene into executive session for the purpose of a conference with the City Attorney to discuss the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest under C.R.S. Section 24-6-402(4)(a), and for the purpose of determining position relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e); and the following additional details are provided for identification purposes:

Proposed ARPA Agreement and related real property issue.

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

Council entered Executive Session at 9:07 p.m. and exited at 10:19 p.m.

T. ADJOURN

President Graham adjourned the meeting at 10:19 p.m.

Respectfully submitted,



Marisa Stoller
City Clerk



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$149,743.81 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 2820 ASTER ST, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

SUMMARY:

This Resolution ratifies and approves award of a construction contract to Parker Excavating, Inc. for emergency sanitary sewer point repairs at 2820 Aster St.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

On January 18th, 2023, the Wastewater Department was notified of a large sink hole in the 2800 block of Aster Street. The collection crew televised the main and discovered a large sag in the main. The crew could not televise the downstream pipe segment due to the sag and safety concerns as the downstream manhole is in Pueblo Boulevard. After the sag and the sinkhole were repaired, the television crew were able to televise the remaining pipe and discovered more large sags in the downstream pipe segment extending into Pueblo Boulevard. An emergency repair was necessary to repair the sinkhole and the sags, and to prevent a backup due to the existing sags.

The repair work was performed under the Sanitary Sewer Point Repair multi-year contract under which three contractors were qualified via competitive bid. An estimate was prepared, and K.R. Swerdfeger Construction, Inc. was the low bidder but could not perform the work. The project was awarded to the next low bidder, Parker Excavating.

The cost breakdown for the project is as follows:

Sanitary Sewer Replacement-related

Total: \$ 117,948.41 79%

Surface Improvement Related

Total: \$ 31,795.40 21 %

Grand Total: \$ 149,743.81 100%

FINANCIAL IMPLICATIONS:

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

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

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

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 8-14-23 2820 Aster St Emergency Point Repair Attachment

RESOLUTION NO. 15323

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$149,743.81 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 2820 ASTER ST, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

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

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

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council ratifies and approves the contract for repair of the sanitary sewers at 2820 Aster St with Parker Excavating, Inc., Project No. 20-059 (WWAN03) awarded to said bidder in the amount of \$149,743.81.

SECTION 2.

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

SECTION 3.

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

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution and the contract to implement the transactions described therein. Furthermore, all actions previously taken by officers and staff of the City consistent with the contract including any payments authorized under the contract and the contract change order in the amount of \$13,145.81 are hereby ratified.

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 14, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

2021-2023 Emergency Sanitary Sewer Point Repair					2820 Aster St Estimate		
Date: 1/19/2023					K.R. Swerdfeger Construction, Inc.	FRPHI ECS & Landscape, Inc.	Parker Excavating, Inc.
Project Number: 20-059 (WWAN03)							
Item	Description	Estimated					
1	Remove and Replace 8" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF	30	\$ 4,290.00	\$ 10,560.00	\$ 3,450.00
		>100	LF		\$ -	\$ -	\$ -
2	Remove and Replace 8" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
3	Remove and Replace 10" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
4	Remove and Replace 10" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
5	Remove and Replace 12" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
6	Remove and Replace 12" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
7	Remove and Replace 15" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
8	Remove and Replace 15" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
9	Remove and Replace 4" Service Tap Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
10	Remove and Replace 4" Service Tap More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
11	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF	120	\$ 7,800.00	\$ 7,440.00	\$ 8,880.00
12	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
13	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
14	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
15	Remove and Replace 7" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
16	Remove and Replace 6" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
17	Remove and Replace 4" Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
18	Remove and Replace Standard Curb and Gutter	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
19	Install Extra Lean Concrete (FlowFill)	1-20	CY		\$ -	\$ -	\$ -
		21-100	CY	40	\$ 6,600.00	\$ 10,200.00	\$ 6,680.00
		>100	CY		\$ -	\$ -	\$ -
20	Remove Camera/Cleaning Head/Tap Cutter	HR			\$ -	\$ -	\$ -
21	Remove and Replace 48" Diameter Manhole	EA			\$ -	\$ -	\$ -
22	Remove and Replace 60" Diameter Manhole	EA			\$ -	\$ -	\$ -
23	Reinstate Services	EA		1	\$ 300.00	\$ 150.00	\$ 388.00
24	Mobilization	LS		1	\$ 1,500.00	\$ 1,750.00	\$ 1,650.00
				Total	\$ 20,490.00	\$ 30,100.00	\$ 21,048.00
				With Contingency	\$ 24,588.00	\$ 36,120.00	\$ 25,257.60

2021-2023 Emergency Sanitary Sewer Point Repair					2820 Aster St Estimate - Additional Repair		
Date: 2/14/2023					K.R. Swerdfeger Construction, Inc.	FRPHI ECS & Landscape, Inc.	Parker Excavating, Inc.
Project Number: 20-059 (WWAN03)							
Item	Description	Estimated					
1	Remove and Replace 8" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF	156	\$ 20,748.00	\$ 50,544.00	\$ 15,288.00
2	Remove and Replace 8" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
3	Remove and Replace 10" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF	200	\$ 28,200.00	\$ 84,800.00	\$ 23,400.00
4	Remove and Replace 10" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
5	Remove and Replace 12" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
6	Remove and Replace 12" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
7	Remove and Replace 15" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
8	Remove and Replace 15" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
9	Remove and Replace 4" Service Tap Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
10	Remove and Replace 4" Service Tap More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
11	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF	390	\$ 25,350.00	\$ 24,180.00	\$ 28,860.00
12	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
13	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
14	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
15	Remove and Replace 7" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF	160	\$ 2,400.00	\$ 5,120.00	\$ 2,720.00
16	Remove and Replace 6" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
17	Remove and Replace 4" Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
18	Remove and Replace Standard Curb and Gutter	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
19	Install Extra Lean Concrete (FlowFill)	1-20	CY		\$ -	\$ -	\$ -
		21-100	CY		\$ -	\$ -	\$ -
		>100	CY	200	\$ 33,000.00	\$ 42,000.00	\$ 33,400.00
20	Remove Camera/Cleaning Head/Tap Cutter	HR			\$ -	\$ -	\$ -
21	Remove and Replace 48" Diameter Manhole	EA	2	\$ 8,000.00	\$ 12,200.00	\$ 8,680.00	
22	Remove and Replace 60" Diameter Manhole	EA		\$ -	\$ -	\$ -	
23	Reinstate Services	EA	4	\$ 1,200.00	\$ 600.00	\$ 1,552.00	
24	Mobilization	LS	1	\$ 1,500.00	\$ 1,750.00	\$ 1,650.00	
				Total	\$ 120,398.00	\$ 221,194.00	\$ 115,550.00
With Contingency					\$ 144,477.60	\$ 265,432.80	\$ 138,660.00

CONTRACT CHANGE ORDER

CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS

Project Number : 20-059 (WWAN03)

Change Order No. : ONE

7/18/2023

Page 1 of 1

Project Name : 2021, 2022 and 2023 Sanitary Sewer Point Repair
2820 Aster St

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

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

Bid Item No.	Description of Changes	Decrease Contract By	Increase Contract By
1	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (21-100LF) (FIRST REPAIR)	(\$3,450.00)	
2	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (>100LF) (FIRST REPAIR + ADDITIONAL REPAIR)	(\$3,234.00)	
4	ASPHALT PATCH – 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE (>100LF) (FIRST REPAIR+ADDITIONAL REPAIR)	(\$7,984.60)	
5	REMOVE AND REPLACE 7" REINFORCED CONCRETE (ADDITIONAL REPAIR)	(\$680.00)	
6	INSTALL EXTRA LEAN CONCRETE (FLOWFILL) (FIRST	(\$18,871.00)	
10	MOBILIZATION (ADDITIONAL REPAIR)	(\$1,650.00)	
11	T&M BREAK INTO MANHOLES		\$4,321.20
12	T&M SET-UP BYPASS PUMPING		\$2,819.68
13	BYPASS PUMPING		\$34,880.19
14	STRIPING		\$1,725.00
15	TRAFFIC CONTROL		\$5,269.34
TOTAL (Decrease) / Increase		(\$35,869.60)	\$49,015.41

Net Adjustment This Change Order

\$ 13,145.81

Amount of Previous Change Order(s)

\$ 0.00

Original Contract Amount

\$ 136,598.00

Total Adjusted Contract Amount To Date

\$ 149,743.81

Reason For Change: Actual Field Quantities.

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

Prepared by: _____ Date: _____

Associate Engineer II

Reviewed by: _____ Date: _____

Wastewater Engineering Manager

Accepted by: _____ Date: _____

Contractor's Representative

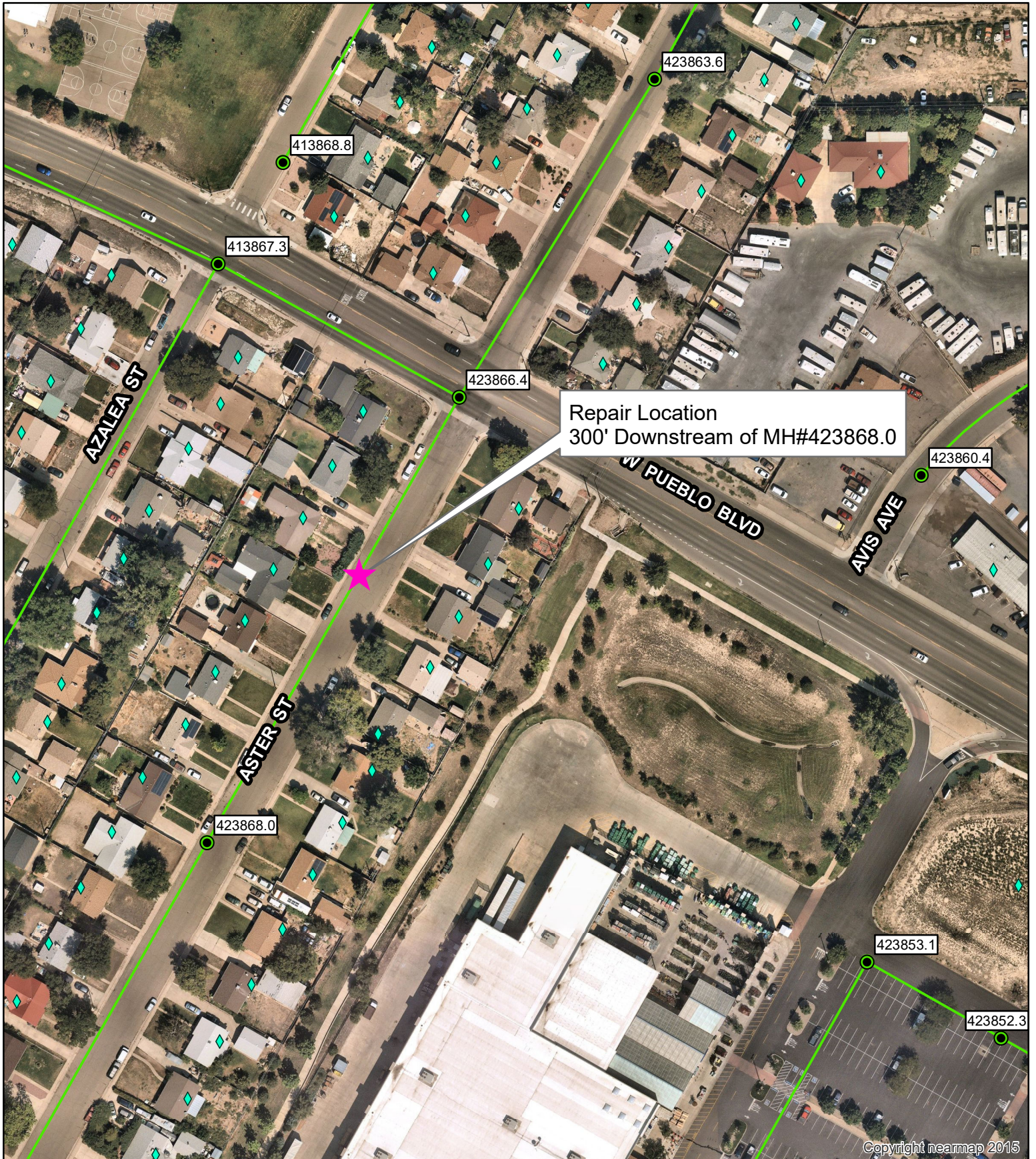
If this Change Order causes an increase from the original contract price, signed approval by the Director constitutes representation that lawful appropriations are sufficient to cover such increase.

Approved by: _____ Date: _____

Director of Wastewater

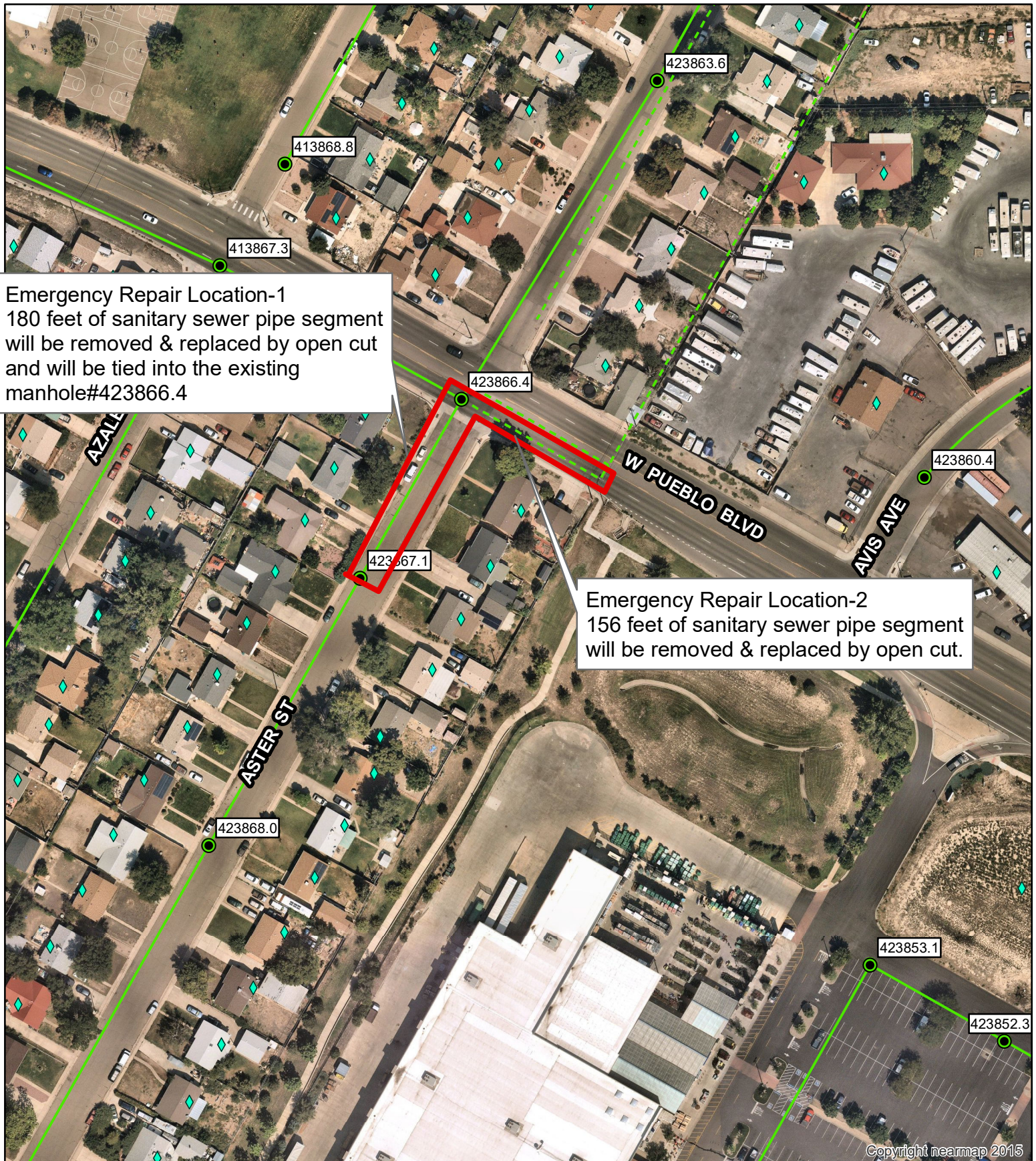


20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
2820 Aster St





20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
2820 Aster St - Additional Work





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Barb Huber, Fire Chief
Lori Pinz, Director Information Technology

SUBJECT: A RESOLUTION AUTHORIZING THE TRANSFER OF BUDGETED AND APPROPRIATED FUNDS IN THE AMOUNT OF \$135,000 FROM PROJECT NO. CI2302 – FIRE RECORD MANAGEMENT SYSTEM TO THE FIRE DEPARTMENT’S CAPITAL BUDGET FOR COMPUTER EQUIPMENT > 2500

SUMMARY:

This Resolution approves the transfer of previously budgeted and appropriated funds in the amount of \$135,000 from Project No. CI2302 – Fire Record Management system to the Fire Department’s Capital Budget for Computer Equipment > 2500.

PREVIOUS COUNCIL ACTION:

In November 2022, the City Council passed and adopted the 2023 Annual Budget approving the appropriation of \$300,000 to CI2302 for the Fire Department’s Record Management system.

BACKGROUND:

Project No. CI2302 was initially created to replace the Fire Department’s current Records Management system. The replacement system costs for their new system modules are less than what was appropriated to this project. Due to a funding error, in the 2023 Annual Budget, Fire did not receive capital budget to replace this aging equipment. The equipment in the Fire trucks is over six (6) years old, out-of-warranty and failing, and must be refreshed. A portion of the unused funding in the CI2302 is enough to replace these computers running 24 x 7 in environmentally harsh year-around conditions.

FINANCIAL IMPLICATIONS:

Transferring these funds will ensure appropriate funding for twenty-two GETAC V110 computers ensuring reliable operating equipment in the Fire Department's fleet.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this resolution.

STAKEHOLDER PROCESS:

Not applicable to this resolution.

ALTERNATIVES:

If the City Council does not approve this Resolution, the Fire Department will not be able to replace their aging computers required to respond effectively and efficiently to calls of service impacting life-saving operations.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15324

A RESOLUTION AUTHORIZING THE TRANSFER OF BUDGETED AND APPROPRIATED FUNDS IN THE AMOUNT OF \$135,000 FROM PROJECT NO. CI2302 – FIRE RECORD MANAGEMENT SYSTEM TO THE FIRE DEPARTMENT'S CAPITAL BUDGET FOR COMPUTER EQUIPMENT > 2500

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The transfer of previously budgeted and appropriated funds in the amount of \$135,000 from Project No. CI2302 – Fire Record Management System to the Fire Department's Capital Budget for Computer Equipment > 2500 is hereby approved.

SECTION 2.

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

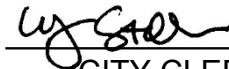
SECTION 3.

This Resolution shall become effective immediately upon passage and approval:

INTRODUCED: August 14, 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: August 14, 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 \$112,044.26 TO PARKER EXCAVATING, INC., FOR PROJECT NO. 23-099, FOUNTAIN CREEK TRAIL EMERGENCY REPAIRS, AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

SUMMARY:

This Resolution ratifies and approves award of an Emergency Construction Contract to Parker Excavating, Inc., for Project No. 23-099 Fountain Creek Trail Emergency Repairs.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The Fountain River Trail was an emergency project because of the heavy rains we had in May and June washed out the bike trail that is on Hwy 47 and Jerry Murphy. It was a severe wash out that has happened before. A drainage system was installed so that we wouldn't have to repair the bike trail again.

The Resolution ratifies the emergency construction contract that was awarded to Parker Excavating, Inc.

FINANCIAL IMPLICATIONS:

Funding in the amount of \$112,044.26 will be paid from account Project CI2322, Fountain Creek Trail Repairs.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

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

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 23-099 Payment Authorization

RESOLUTION NO. 15325

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$112,044.26 TO PARKER EXCAVATING, INC., FOR PROJECT NO. 23-099, FOUNTAIN CREEK TRAIL EMERGENCY REPAIRS, AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

WHEREAS, an emergency City improvement contract was requested by the Director of Public Works and authorized by the Mayor in accordance with Section 1-10-5 of the Pueblo Municipal Code for Project 23-099, Fountain Creek Trail Emergency Repairs; and,

WHEREAS, the proposal of Parker Excavating, Inc., was the lowest of those bids received by informal bidding and was determined to be the proposal which will achieve maximum economy to the City under the conditions prevailing; and,

WHEREAS, an emergency construction contract to complete the repairs was awarded to Parker Excavating, Inc., under Project No. 23-099; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council ratifies and approves the contract for the trail repairs at Fountain Creek with Parker Excavating, Inc., Project No. 23-099, Fountain Creek Emergency Repairs project awarded to said contractor in the amount of \$112,044.26.

SECTION 2.

The Purchasing Agent was authorized to execute said contract on behalf of Pueblo, a municipal corporation, and the City Clerk shall affix the seal of the City thereto and attest same.

SECTION 3.

Funds in the amount of \$112,044.26, for Project No. 23-099 shall be from account Project CI2322, Fountain Creek Trail Repairs.

SECTION 4.

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

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 14, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

PARTIAL PAYMENT No. ONE

PROJECT NAME: Fountain Creek
CONTRACTOR: Parker Excavation
PROJECT NO: 23-099

BID ITEM	DESCRIPTION	BID QUANTITY	UNIT	UNIT PRICE	QUANTITY PREVIOUS	QUANTITY THIS PERIOD	AMOUNT
BASE BID: Grand Avenue							
1	Place 18" Rip-rap	363	TON	\$38.40		385.82	\$14,815.49
2	Place 6" Rip-rap	400	TON	\$34.80		359.53	\$12,511.64
3	Install Geotextile Fabric	405	SY	\$8.00		600.00	\$4,800.00
4	Place and Compact Fill	631	TON	\$38.50		396.00	\$15,246.00
5	Remove 7" Reinforced Concrete	1,240	SF	\$6.00		1,150.00	\$6,900.00
6	Place 7" Reinforced Concrete	1,240	SF	\$13.00		1,150.00	\$14,950.00
7	Place Flowfill	142	CY	\$255.00		13.00	\$3,315.00
8	Unclassified Excavation	1,000	CY	\$8.50		1,000.00	\$8,500.00
9	Re-set 48" Sorem-drain Collar	1	LS	\$3,200.00		1.00	\$3,200.00
10	Movilization	1	LS	\$4,500.00		1.00	\$4,500.00
11	Security	1	LS	\$2,415.00		1.00	\$2,415.00
12	24" HDPE	40	LF	\$244.00		40.00	\$9,760.00
13	Hammer off Top of Storm Vault	7	HR	\$685.00		7.00	\$4,795.00
14	Install Flared end Section	2	EA	\$830.00		2.00	\$1,660.00
15	57/67 Rock	105	TON	\$26.04		104.69	\$2,726.13
16	Trucking for 57/67 Rock	6	HR	\$125.00		6.00	\$750.00
17	Cut Swale	3	HR	\$400.00		3.00	\$1,200.00
TOTAL							\$112,044.26



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$92,166.47 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 1701 E. 12TH STREET, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

SUMMARY:

This Resolution ratifies and approves award of a construction contract to Parker Excavating, Inc. for emergency sanitary sewer point repairs at 1701 E. 12th St.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

On April 6th, 2023, the Wastewater Department was notified that the cleaning head got stuck during routine cleaning of the sanitary sewer main located in the alley of 1700 Block of E. 12th St. After further investigation, a large joint offset, a hole in the pipe invert and a significant hinge fracture-broken pipe segment have been discovered in the sewer main. These defects will further deteriorate the pipe, increase the chance of collapse and immediate backup in the main. An emergency repair was necessary to repair these defects as well as to remove the cleaning head, so a backup would not occur.

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

The cost breakdown for the project is as follows:

Sanitary Sewer Replacement-related

<i>Total:</i>	\$	79,021.00	86%
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Surface Improvement Related

<i>Total:</i>	\$	13,145.47	14 %
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<i>Grand Total:</i>	\$	92,166.47	100%
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FINANCIAL IMPLICATIONS:

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

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

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

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 08-14-23 1701 E 12th St Emergency Point Repair Attachment

RESOLUTION NO. 15326

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$92,166.47 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 1701 E. 12TH STREET, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

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

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

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council ratifies and approves the contract for repair of the sanitary sewers at 1701 E. 12th St with Parker Excavating, Inc., Project No. 20-059 (WWAN03) awarded to said bidder in the amount of \$92,166.47.

SECTION 2.

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

SECTION 3.

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

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution and the contract to implement the transactions described therein. Furthermore, all actions previously taken by officers and staff of the City consistent with the contract including any payments authorized under the contract and the contract change order in the amount of \$22,840.97 are hereby ratified.

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 14, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

2021-2023 Emergency Sanitary Sewer Point Repair					1701 E 12 St Estimate		
Date 4/6/2023					K.R. Swerdfeger Construction, Inc.	FRPHI ECS & Landscape, Inc.	Parker Excavating, Inc.
Project Number: 20-059 (WWAN03)							
Item	Description	Estimated					
1	Remove and Replace 8" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF	552	\$ 73,416.00	\$ 178,848.00	\$ 54,096.00
2	Remove and Replace 8" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
3	Remove and Replace 10" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
4	Remove and Replace 10" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
5	Remove and Replace 12" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
6	Remove and Replace 12" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
7	Remove and Replace 15" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
8	Remove and Replace 15" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
9	Remove and Replace 4" Service Tap Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
10	Remove and Replace 4" Service Tap More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
11	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF	27	\$ 1,890.00	\$ 1,755.00	\$ 2,025.00
		>100	LF		\$ -	\$ -	\$ -
12	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
13	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
14	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
15	Remove and Replace 7" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF	80	\$ 1,600.00	\$ 2,800.00	\$ 1,400.00
		>100	SF		\$ -	\$ -	\$ -
16	Remove and Replace 6" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
17	Remove and Replace 4" Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF	50	\$ 750.00	\$ 1,300.00	\$ 662.50
		>100	SF		\$ -	\$ -	\$ -
18	Remove and Replace Standard Curb and Gutter	1-20	LF	10	\$ 550.00	\$ 600.00	\$ 450.00
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
19	Install Extra Lean Concrete (FlowFill)	1-20	CY	10	\$ 1,650.00	\$ 2,850.00	\$ 1,670.00
		21-100	CY		\$ -	\$ -	\$ -
		>100	CY		\$ -	\$ -	\$ -
20	Remove Camera/Cleaning Head/Tap Cutter	HR			\$ -	\$ -	\$ -
21	Remove and Replace 48" Diameter Manhole	EA			\$ -	\$ -	\$ -
22	Remove and Replace 60" Diameter Manhole	EA			\$ -	\$ -	\$ -
23	Reinstate Services	EA		19	\$ 5,700.00	\$ 2,850.00	\$ 7,372.00
24	Mobilization	LS		1	\$ 1,500.00	\$ 1,750.00	\$ 1,650.00
				Total	\$ 87,056.00	\$ 192,753.00	\$ 69,325.50
				With Contingency	\$ 104,467.20	\$ 231,303.60	\$ 83,190.60

CONTRACT CHANGE ORDER
CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS

Project Number : 20-059 (WWAN03) Change Order No. : ONE 7/21/2023 Page 1 of 1

Project Name : 2021, 2022 and 2023 Sanitary Sewer Point Repair
1701 E 12th St

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

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

Bid Item No.	Description of Changes	Decrease Contract By	Increase Contract By
1	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (>100LF)		\$294.00
2	ASPHALT PATCH – 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE (21-100LF)		\$4,200.00
3	REMOVE AND REPLACE 7" REINFORCED CONCRETE (21-100SF)	(\$1,400.00)	
4	REMOVE AND REPLACE 4" CONCRETE(1-20SF)	(\$662.50)	
5	REMOVE AND REPLACE STANDARD CURB AND GUTTER(1-20LF)	(\$450.00)	
6	INSTALL EXTRA LEAN CONCRETE (FLOWFILL)		\$3,006.00
7	REINSTATE SERVICES		\$776.00
9	REMOVE AND REPLACE 7" REINFORCED CONCRETE (>100SF)		\$2,082.50
10	REMOVE AND REPLACE STANDARD CURB AND GUTTER(21-100LF)		\$2,156.00
11	INSTALL 6" CURB HEAD		\$251.25
12	T&M PHONE LINE RELOCATION		\$8,392.44
13	RECYCLED ASPHALT (TRUCKING, MATERIAL AND LABOR)		\$2,430.72
14	TRAFFIC CONTROL		\$1,764.56
TOTAL (Decrease) / Increase		(\$2,512.50)	\$25,353.47

Net Adjustment This Change Order	\$	22,840.97
Amount of Previous Change Order(s)	\$	0.00
Original Contract Amount	\$	69,325.50
Total Adjusted Contract Amount To Date	\$	92,166.47

Reason For Change: Actual Field Quantities.

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

Prepared by: _____ Date: _____
Associate Engineer II

Reviewed by: _____ Date: _____
Wastewater Engineering Manager

Accepted by: _____ Date: _____
Contractor's Representative

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

Approved by: _____ Date: _____
Director of Wastewater



20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
1701 E 12th St





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$73,304.58 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 715 E. B STREET, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

SUMMARY:

This Resolution ratifies and approves award of a construction contract to Parker Excavating, Inc. for emergency sanitary sewer point repairs at 715 E. B St.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

While performing a routine inspection of sewer mains, the Wastewater Department collection crew found a significant hinge fracture, broken pipe segments and holes in the sewer main near 715 E. B St. These defects will further deteriorate the pipe, increase the chance of collapse and can cause a backup in the main. An emergency repair was necessary to repair these defects. The scope of work included removing and replacing broken segments and holes as well as upsizing the main from 6" to 10" in diameter, this work was reasonably necessary with respect to the emergency point repair.

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

The cost breakdown for the project is as follows:

Sanitary Sewer Replacement-related

Total: \$ 57,361.58 78%

Surface Improvement Related

Total: \$ 15,943.00 22 %

Grand Total: \$ 73,304.58 100%

FINANCIAL IMPLICATIONS:

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

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

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

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 08-14-23 715 E B St Emergency Point Repair Attchment

RESOLUTION NO. 15327

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$73,304.58 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 715 E. B STREET, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

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

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

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council ratifies and approves the contract for repair of the sanitary sewers at 715 E. B St with Parker Excavating, Inc., Project No. 20-059 (WWAN03) awarded to said bidder in the amount of \$73,304.58.

SECTION 2.

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

SECTION 3.

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

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution and the contract to implement the transactions described therein. Furthermore, all actions previously taken by officers and staff of the City consistent with the contract including any payments authorized under the contract and the contract change order in the amount of \$7,242.58 are hereby ratified.

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 14, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

2021-2023 Emergency Sanitary Sewer Point Repair					715 E B St Estimate		
Date: 5/30/2023					K.R. Swerdfeger Construction, Inc.	FRPHI ECS & Landscape, Inc.	Parker Excavating, Inc.
Project Number: 20-059 (WWAN03)							
Item	Description	Estimated					
1	Remove and Replace 8" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
2	Remove and Replace 8" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
3	Remove and Replace 10" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF	277	\$ 39,057.00	\$ 117,448.00	\$ 32,409.00
4	Remove and Replace 10" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
5	Remove and Replace 12" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
6	Remove and Replace 12" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
7	Remove and Replace 15" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
8	Remove and Replace 15" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
9	Remove and Replace 4" Service Tap Less than 10' Deep	1-20	LF	42.7	\$ 6,405.00	\$ 192,150.00	\$ 4,697.00
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
10	Remove and Replace 4" Service Tap More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
11	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF	82	\$ 5,330.00	\$ 5,084.00	\$ 6,068.00
12	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
13	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
14	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
15	Remove and Replace 7" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF	140	\$ 2,100.00	\$ 4,480.00	\$ 2,380.00
16	Remove and Replace 6" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
17	Remove and Replace 4" Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
18	Remove and Replace Standard Curb and Gutter	1-20	LF	20	\$ 1,100.00	\$ 1,200.00	\$ 900.00
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
19	Install Extra Lean Concrete (FlowFill)	1-20	CY		\$ -	\$ -	\$ -
		21-100	CY	30	\$ 4,950.00	\$ 7,650.00	\$ 5,010.00
		>100	CY		\$ -	\$ -	\$ -
20	Remove Camera/Cleaning Head/Tap Cutter	HR			\$ -	\$ -	\$ -
21	Remove and Replace 48" Diameter Manhole	EA		2	\$ 8,000.00	\$ 12,200.00	\$ 8,680.00
22	Remove and Replace 60" Diameter Manhole	EA			\$ -	\$ -	\$ -
23	Reinstate Services	EA		11	\$ 3,300.00	\$ 1,650.00	\$ 4,268.00
24	Mobilization	LS		1	\$ 1,500.00	\$ 1,750.00	\$ 1,650.00
				Total	\$ 71,742.00	\$ 343,612.00	\$ 66,062.00
With Contingency					\$ 86,090.40	\$ 412,334.40	\$ 79,274.40

CONTRACT CHANGE ORDER
CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS

Project Number : 20-059 (WWAN03) Change Order No. : ONE 7/25/2023 Page 1 of 1
Project Name : 2021, 2022 and 2023 Sanitary Sewer Point Repair
715 E B St

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

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

Bid Item No.	Description of Changes	Decrease Contract By	Increase Contract By
1	REMOVE & REPLACE 10" PVC PIPE <10' DEEP (>100LF)	(\$468.00)	
2	REMOVE AND REPLACE 4" SERVICE TAP LESS THAN 10' DEEP(1-20LF)	(\$4,697.00)	
3	ASPHALT PATCH – 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE	(\$6,068.00)	
4	REMOVE AND REPLACE 7" REINFORCED CONCRETE (>100SF)	(\$2,380.00)	
5	REMOVE AND REPLACE STANDARD CURB AND GUTTER(1-20LF)	(\$360.00)	
6	INSTALL EXTRA LEAN CONCRETE (FLOWFILL)		\$835.00
8	REINSTATE SERVICES	(\$3,104.00)	
10	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (1-20LF)		\$1,750.00
11	ASPHALT PATCH – 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE (21-		\$5,325.00
12	REMOVE AND REPLACE 7" REINFORCED CONCRETE (21-100SF)		\$1,750.00
13	REMOVE AND REPLACE 6" REINFORCED CONCRETE (21-100SF)		\$792.00
14	REMOVE AND REPLACE 4" CONCRETE (21-100SF)		\$636.00
15	SEEDING		\$3,450.00
16	REPLACE GUARDRAIL		\$1,265.00
17	REPLACE SPRINKLERS		\$460.00
18	REMOVE AND REPLACE FENCE		\$1,725.00
19	SECURITY		\$2,415.00
20	LOCATE SEWER LINE		\$263.35
21	BOND		\$1,982.00
22	TRAFFIC CONTROL		\$1,671.23
TOTAL (Decrease) / Increase		(\$17,077.00)	\$24,319.58

Net Adjustment This Change Order	\$	7,242.58
Amount of Previous Change Order(s)	\$	0.00
Original Contract Amount	\$	66,062.00
Total Adjusted Contract Amount To Date	\$	73,304.58

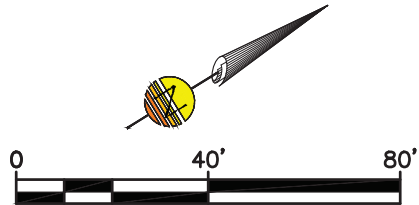
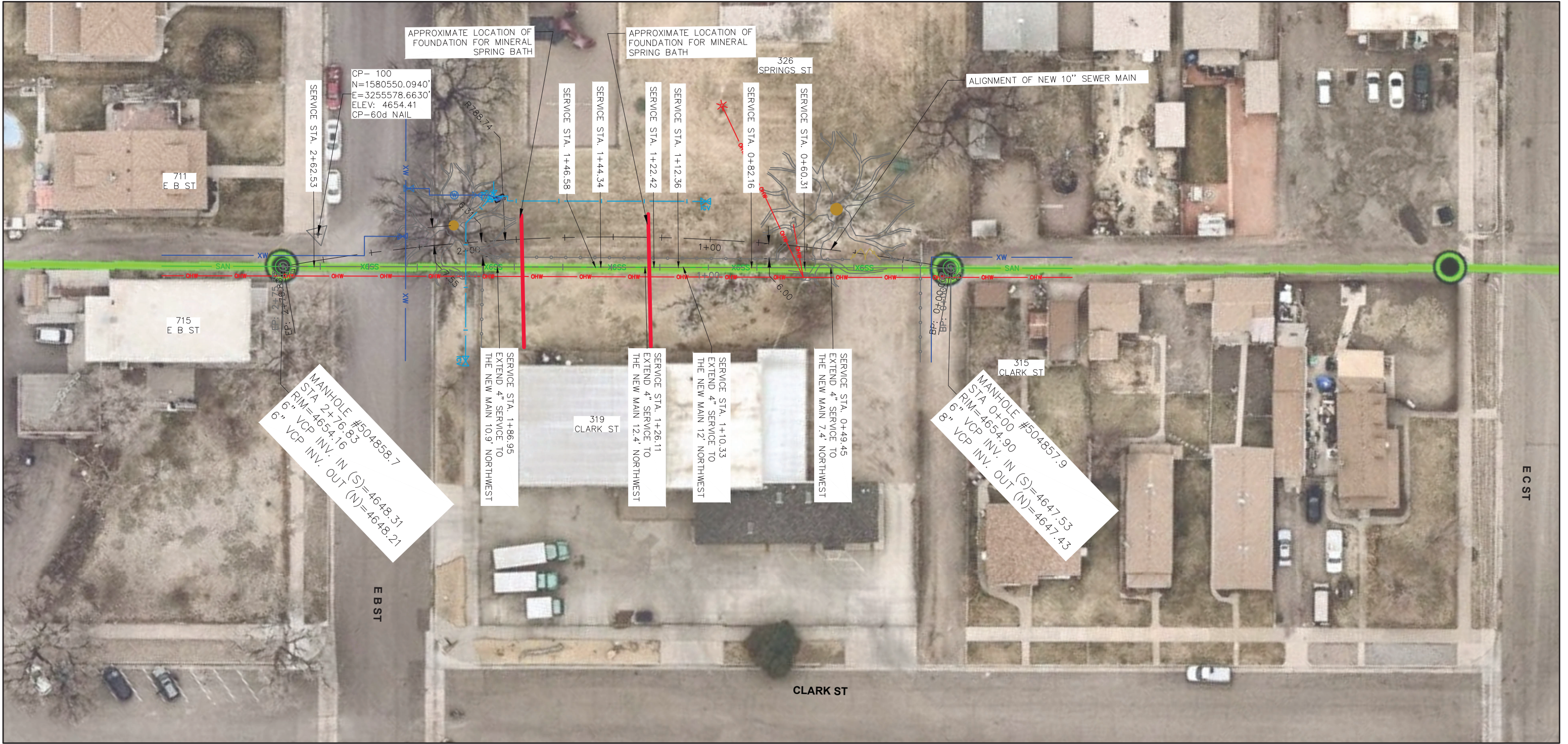
Reason For Change: Actual Field Quantities.

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



NO.	REVISIONS	BY	DATE	APPROVAL



WASTEWATER DEPARTMENT
ENGINEERING DIVISION
1300 S. QUEENS AVE. PUEBLO, CO 81001
(719) 553-2898 PHONE
(719) 553-2957 FAX

SCALE (H): 1" = 40'
SCALE (V): 1" = N/A
DESIGNED BY: M.T.
CHECKED BY: S.M.
APPROVED BY: S.M.
APRIL 5, 2023

PROJECT #20-059 (WWAN03)
FY2021 - 2023 SANITARY SEWER EMERGENCY POINT REPAIR PROJECT
715 E B ST

PAGE NO.
1 OF 1



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 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 CONTRACT AMENDMENT NO. 1 IN THE AMOUNT OF \$30,214.89 TO MERRIMAN LAND WORKS DBA FLAT AND FANCY, FOR PROJECT NO. 22-094, PEAKVIEW CONCRETE REPAIRS AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

This Resolution awards Contract Amendment No. 1 in the amount of \$30,214.89 to Merriman Land Works DBA Flat and Fancy, for Project No. 22-094 Peakview Concrete Repairs.

PREVIOUS COUNCIL ACTION:

Resolution 15096, dated December 29, 2022, awarded a Construction Contract to Merriman Land Works DBA Flat and Fancy, for Project No. 22-094 Peakview Concrete Repairs.

BACKGROUND:

The Project will remove and replace the curb and gutter along the east side of North Peakview Drive between North Drive and South Drive. Work may include sidewalks, driveways, curb and gutter, and asphalt patching. This project is necessary to fix drainage issues within the public right-of-way.

The Peakview Concrete project overran due to the sidewalks needing extra curb head behind them to hold back existing landscaping and extra driveways that needed cut back to allow access. When putting the sidewalks in to ADA compliance, the landscaping and driveways were elevated to high and needed extra work.

This Resolution approves an amendment to increase the contract award amount on the contract previously awarded to Merriman Land Works DBA Flat and Fancy.

FINANCIAL IMPLICATIONS:

Funding in the amount of \$30,214.89 will be paid from account Project No. CI2204, Street Rehabilitation Project.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this Resolution would deny payment of the necessary additional work that was performed.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 22-094 Amendment No 1 - Flat and Fancy - Peakview Concrete Repairs

RESOLUTION NO. 15328

A RESOLUTION AWARDDING CONTRACT AMENDMENT NO. 1
IN THE AMOUNT OF \$30,214.89 TO MERRIMAN LAND WORKS
DBA FLAT AND FANCY, FOR PROJECT NO. 22-094,
PEAKVIEW CONCRETE REPAIRS AND AUTHORIZING THE
PURCHASING AGENT TO EXECUTE SAME

WHEREAS, a Construction Contract was awarded to Merriman Land Works DBA Flat and Fancy, under Contract Number 22-094; and,

WHEREAS, additional work was necessary to complete the project; NOW,
THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

This Contract Amendment No. 1 to the Peakview Concrete Repair with Merriman Land Works DBA Flat and Fancy, Project No. 22-094, a project in the amount of \$30,214.89.

SECTION 2.

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

SECTION 3.

Funds for Project 22-094 shall be from account Project No. CI2204, Street Rehabilitation.

SECTION 4.

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

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 14, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

**AMENDMENT NO. 1 TO
CONSTRUCTION CONTRACT**

This Amendment No. 1 to a construction contract ("Amendment") is executed to be effective as of August 9, 2023, by and between the City of Pueblo, a Municipal Corporation ("City") and Merriman Land Works, LLC dba Flat and Fancy, a Colorado Limited Liability Company ("Contractor").

WHEREAS, City and Contractor entered into that certain construction contract dated January 17, 2023, for Bid 22-094 (CI2204) Peakview Concrete Repairs (the "Construction Agreement"); and

WHEREAS, City and Contractor desire to amend the Construction Agreement subject to the terms and conditions set forth herein.

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

1. The Request for Quotation for additional work attached hereto, and labelled Exhibit 1, is hereby accepted and approved. The Construction Agreement is amended to incorporate all additional work to be performed as contemplated by and at the prices set forth in the Request for Quotation. Contractor shall perform all such work subject to and consistent with all requirements and provisions of the Construction Agreement. Contractor shall perform all acts necessary or required as a result of this Amendment, including, but not limited to, furnishing Performance and Payment Bonds in compliance with Section 5.20 of the Invitation for Bid. The Performance and Payment Bonds shall be in the total amount of \$145,090.56, which amount includes the original contract amount of \$99,875.67, Contract Change Order No. 1 in the amount of \$14,344.39, and the additional contract amount of \$30,870.50 contemplated by the additional work to be performed under this Amendment. The time for completion of all work under the Construction Agreement including the additional work to be performed under this Amendment shall not be extended.

2. Except as expressly modified by this Amendment, the Construction Agreement shall remain in full force and effect. Except as modified by this Amendment, any obligations to be performed under the Construction 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 Construction Agreement as it existed prior to this Amendment.

3. This Amendment 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 caused this instrument to be executed the day and year first above written.

PUEBLO, A MUNICIPAL CORPORATION

**MERRIMAN LAND WORKS, LLC DBA FLAT AND
FANCY**

By _____
Naomi Hedden, Director of Purchasing

By _____
Garrett Peterson, Managing Member

ATTEST:

Marisa Stoller, City Clerk

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

Alexandria Romero, Director of Finance

APPROVED AS TO FORM:

Robert P. Jagger, City Attorney

EXHIBIT 1
REQUEST FOR QUOTATIONS

BID 22-094 (CI2204) PEAKVIEW CONCRETE REPAIRS

The undersigned hereby proposes to furnish all labor, materials, tools, equipment, and all utility/transportation services necessary to perform and complete, in an industry acceptable and professional manner, construction in accordance with the plans and specifications as prepared by or for the City of Pueblo, Colorado, for the sums set forth in the following schedule:

Additional Work Item	Quantity	Grand Total for Additional Work
Additional work required to complete project.	Lump Sum	\$30,870.50

(Thirty Thousand Eight Hundred Seventy and 50/100-----Dollars)

The undersigned has examined the quantities shown against the plans and specifications and accepts the said quantities as substantially correct, both as to classification and amount, and as correctly listing the work to be completed. The City is not responsible for bidding errors resulting from Contractor's failure to follow this requirement.

MERRIMAN LAND WORKS, LLC DBA FLAT AND FANCY

By: _____
Garrett Peterson, Managing Member



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$5,792.13 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 1900 W 31ST STREET, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

SUMMARY:

This Resolution ratifies and approves award of a construction contract to Parker Excavating, Inc. for emergency sanitary sewer point repairs at 1900 W 31st Street.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

On June 8th, 2023, the Wastewater Department was notified that the cleaning head got stuck during routine cleaning of the sanitary sewer main located in the Colfax Ave near 1900 W 31st Street. After further investigation, it was found out that the main did not have any taps and the upstream main was already abandoned. An emergency repair was performed to retrieve the cleaning head, plug the main at the downstream manhole with concrete and abandon the upstream manhole filling with concrete.

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

The cost breakdown for the project is as follows:

Sanitary Sewer Replacement-related

Total: \$ 5,792.13 100%

Surface Improvement Related

Total: \$ 0.00 00%

Grand Total: \$ 5,792.13 100%

FINANCIAL IMPLICATIONS:

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

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

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

RECOMMENDATION:

Approval of the Resolution

ATTACHMENTS:

1. 08-14-23 1900 W 31st St Emergency Point Repair Attachment

RESOLUTION NO. 15329

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$5,792.13 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 1900 W 31ST STREET, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

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

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

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council ratifies and approves the contract for repair of the sanitary sewers at 1900 W 31st Street with Parker Excavating, Inc., Project No. 20-059 (WWAN03) awarded to said bidder in the amount of \$5,792.13.

SECTION 2.

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

SECTION 3.

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

SECTION 4.

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

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 14, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

2021-2023 Emergency Sanitary Sewer Point Repair					1900 W 31st St Estimate		
Date: 6/8/2023					K.R. Swerdfeger Construction, Inc.	FRPHI ECS & Landscape, Inc.	Parker Excavating, Inc.
Project Number: 20-059 (WWAN03)							
Item	Description	Estimated					
1	Remove and Replace 8" PVC Less than 10' Deep	1-20	LF	15	\$ 2,850.00	\$ 5,475.00	\$ 1,875.00
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
2	Remove and Replace 8" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
3	Remove and Replace 10" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
4	Remove and Replace 10" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
5	Remove and Replace 12" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
6	Remove and Replace 12" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
7	Remove and Replace 15" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
8	Remove and Replace 15" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
9	Remove and Replace 4" Service Tap Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
10	Remove and Replace 4" Service Tap More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
11	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 8" and 10" Pipe	1-20	LF	15	\$ 1,425.00	\$ 1,020.00	\$ 1,425.00
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
12	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
13	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
14	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
15	Remove and Replace 7" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
16	Remove and Replace 6" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
17	Remove and Replace 4" Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF	80	\$ 1,200.00	\$ 2,080.00	\$ 1,060.00
		>100	SF		\$ -	\$ -	\$ -
18	Remove and Replace Standard Curb and Gutter	1-20	LF	10	\$ 550.00	\$ 600.00	\$ 450.00
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
19	Install Extra Lean Concrete (FlowFill)	1-20	CY	8	\$ 1,320.00	\$ 2,280.00	\$ 1,336.00
		21-100	CY		\$ -	\$ -	\$ -
		>100	CY		\$ -	\$ -	\$ -
20	Remove Camera/Cleaning Head/Tap Cutter	HR		6	\$ 1,950.00	\$ 1,500.00	\$ 2,988.00
21	Remove and Replace 48" Diameter Manhole	EA			\$ -	\$ -	\$ -
22	Remove and Replace 60" Diameter Manhole	EA			\$ -	\$ -	\$ -
23	Reinstate Services	EA			\$ -	\$ -	\$ -
24	Mobilization	LS		1	\$ 1,500.00	\$ 1,750.00	\$ 1,650.00
				Total	\$ 10,795.00	\$ 14,705.00	\$ 10,784.00
				With Contingency	\$ 12,954.00	\$ 17,646.00	\$ 12,940.80

CONTRACT CHANGE ORDER
CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS

Project Number : 20-059 (WWAN03) Change Order No. : ONE 7/25/2023 Page 1 of 1

Project Name : 2021, 2022 and 2023 Sanitary Sewer Point Repair
1900 W 31st St

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

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

Bid Item No.	Description of Changes	Decrease Contract By	Increase Contract By
1	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (1-20LF)	(\$1,875.00)	
2	ASPHALT PATCH – 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE (1-20LF)	(\$1,425.00)	
3	REMOVE AND REPLACE 4" CONCRETE (21-100SF)	(\$1,060.00)	
4	REMOVE AND REPLACE STANDARD CURB AND GUTTER (1-20LF)	(\$450.00)	
5	INSTALL EXTRA LEAN CONCRETE (FLOWFILL)	(\$1,336.00)	
6	REMOVE CAMERA/CLEANING HEAD/TAP CUTTER		\$498.00
8	INSTALL CONCRETE		\$656.13
TOTAL (Decrease) / Increase		(\$6,146.00)	\$1,154.13

Net Adjustment This Change Order	\$	(4,991.88)
Amount of Previous Change Order(s)	\$	0.00
Original Contract Amount	\$	10,784.00
Total Adjusted Contract Amount To Date	\$	5,792.13

Reason For Change: Actual Field Quantities.

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

Prepared by: _____ Date: _____
Associate Engineer II

Reviewed by: _____ Date: _____
Wastewater Engineering Manager

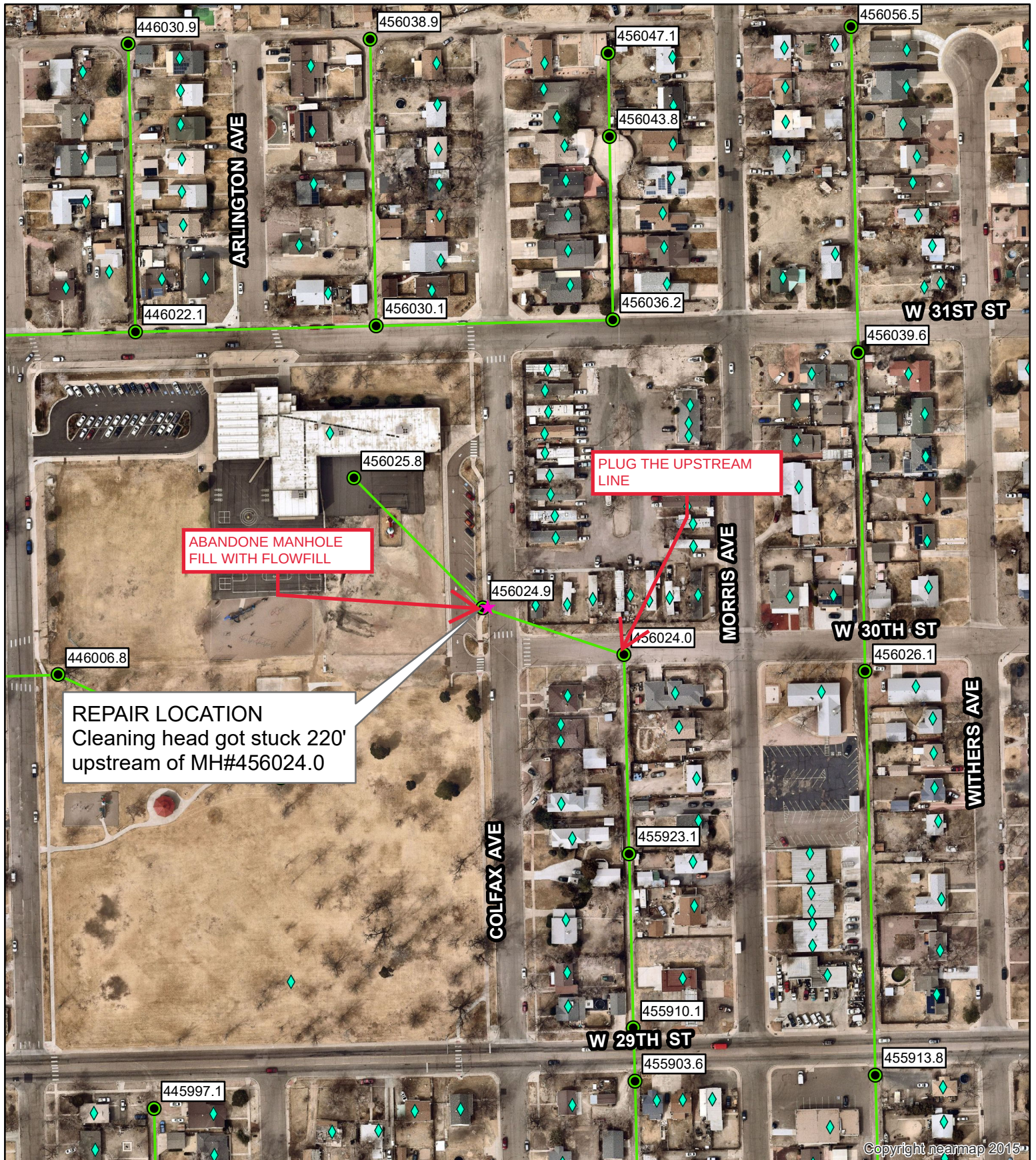
Accepted by: _____ Date: _____
Contractor's Representative

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

Approved by: _____ Date: _____
Director of Wastewater



20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
1900 W 31st St





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$5,091.00 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 1612 E. ABRIENDO AVENUE, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

SUMMARY:

This Resolution ratifies and approves award of a construction contract to Parker Excavating, Inc. for emergency sanitary sewer point repairs at 1612 E. Abriendo Ave.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

During a routine inspection of the manholes, the Wastewater Department collection crew found the ring and lid of the manhole near 1612 E. Abriendo Ave was lower than the asphalt pavement level and unbalanced, which was creating a potential risk for the traffic in the area. An emergency repair was necessary to remove and replace the manhole ring and lid and adjust them to the pavement level, so the risk of a possible accident would be eliminated.

The repair work was performed under the Sanitary Sewer Point Repair multi-year contract under which three contractors were qualified via competitive bid. An estimate was prepared, and K.R. Swerdfeger Construction, Inc. was the low bidder but could not perform the work. The project was awarded to the next low bidder, Parker Excavating.

The cost breakdown for the project is as follows:

Sanitary Sewer Replacement-related

Total: \$ 3,711.00 73%

Surface Improvement Related

Total: \$ 1,380.00 27%

Grand Total: \$ 5,091.00 100%

FINANCIAL IMPLICATIONS:

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

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

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

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 8-14-23 1612 E Abriendo Ave Emergency Point Repair Attachment

RESOLUTION NO. 15330

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$5,091.00 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 1612 E. ABRIENDO AVENUE, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

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

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

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council ratifies and approves the contract for repair of the sanitary sewers at 1612 E. Abriendo Ave with Parker Excavating, Inc., Project No. 20-059 (WWAN03) awarded to said bidder in the amount of \$5,091.00.

SECTION 2.

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

SECTION 3.

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

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution and the contract to implement the transactions described therein. Furthermore, all actions previously taken by officers and staff of the City consistent with the contract including any payments authorized under the contract and the contract change order in the amount of \$506.00 are hereby ratified.

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 14, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

2021-2023 Emergency Sanitary Sewer Point Repair					1612 E Abriendo Estimate		
Date5/18/2023					K.R. Swerdfeger Construction, Inc.	FRPHI ECS & Landscape, Inc.	Parker Excavating, Inc.
Project Number: 20-059 (WWAN03)							
Item	Description	Estimated					
1	Remove and Replace 8" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
2	Remove and Replace 8" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
3	Remove and Replace 10" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
4	Remove and Replace 10" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
5	Remove and Replace 12" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
6	Remove and Replace 12" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
7	Remove and Replace 15" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
8	Remove and Replace 15" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
9	Remove and Replace 4" Service Tap Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
10	Remove and Replace 4" Service Tap More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
11	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 8" and 10" Pipe	1-20	LF	15	\$ 1,425.00	\$ 1,020.00	\$ 1,425.00
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
12	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
13	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
14	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
15	Remove and Replace 7" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
16	Remove and Replace 6" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
17	Remove and Replace 4" Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
18	Remove and Replace Standard Curb and Gutter	1-20	LF	15	\$ 825.00	\$ 900.00	\$ 675.00
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
19	Install Extra Lean Concrete (FlowFill)	1-20	CY		\$ -	\$ -	\$ -
		21-100	CY	5	\$ 825.00	\$ 1,275.00	\$ 835.00
		>100	CY		\$ -	\$ -	\$ -
20	Remove Camera/Cleaning Head/Tap Cutter	HR			\$ -	\$ -	\$ -
21	Remove and Replace 48" Diameter Manhole	EA			\$ -	\$ -	\$ -
22	Remove and Replace 60" Diameter Manhole	EA			\$ -	\$ -	\$ -
23	Reinstate Services	EA			\$ -	\$ -	\$ -
24	Mobilization	LS		1	\$ 1,500.00	\$ 1,750.00	\$ 1,650.00
				Total	\$ 4,575.00	\$ 4,945.00	\$ 4,585.00
With Contingency					\$ 5,490.00	\$ 5,934.00	\$ 5,502.00

CONTRACT CHANGE ORDER
CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS

Project Number : 20-059 (WWAN03) Change Order No. : ONE 7/11/2023 Page 1 of 1

Project Name : 2021, 2022 and 2023 Sanitary Sewer Point Repair
1612 E Abriendo Ave

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

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

Bid Item No.	Description of Changes	Decrease Contract By	Increase Contract By
1	ASPHALT PATCH – 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE (1-20LF)	(\$475.00)	
2	REMOVE AND REPLACE STANDARD CURB AND GUTTER(1-20LF)	(\$675.00)	
3	INSTALL EXTRAL LEAN CONCRETE (1-20CY)	(\$835.00)	
5	REMOVE AND REPLACE 7" REINFORCED CONCRETE (1-20SF)		\$430.00
6	T&M - REMOVING EXISTING RING AND INSTALLING NEW RING		\$1,509.84
7	RING AND LID		\$284.37
8	TRAFFIC CONTROL		\$266.79
TOTAL (Decrease) / Increase		(\$1,985.00)	\$2,491.00

Net Adjustment This Change Order	\$	506.00
Amount of Previous Change Order(s)	\$	0.00
Original Contract Amount	\$	4,585.00
Total Adjusted Contract Amount To Date	\$	5,091.00

Reason For Change: Actual Field Quantities.

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

Prepared by: _____ Date: _____
Associate Engineer II

Reviewed by: _____ Date: _____
Wastewater Engineering Manager

Accepted by: _____ Date: _____
Contractor's Representative

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

Approved by: _____ Date: _____
Director of Wastewater



20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
1612 E Abriendo Ave





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$4,563.43 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 1402 E. 9TH STREET, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

SUMMARY:

This Resolution ratifies and approves award of a construction contract to Parker Excavating, Inc. for emergency sanitary sewer point repairs at 1402 E. 9th St.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

On May 10, 2023, the Wastewater Department was notified of a sink hole in the alley behind 1402 E. 9th St. A television crew was sent out to inspect the main and they discovered mud was oozing into the sewer main from a hole in the pipe at the same location as the sinkhole, which was likely due to heavy rains. An emergency repair was necessary to fix the sinkhole and repair the pipe segment, so the mud entering the main would be stopped and a backup would not occur.

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

The cost breakdown for the project is as follows:

Sanitary Sewer Replacement-related

Total: \$ 3,233.43 71%

Surface Improvement Related

Total: \$ 1,330.00 29%

Grand Total: \$ 4,563.43 100%

FINANCIAL IMPLICATIONS:

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

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

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

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 08-14-23 1402 E 9th St Emergency Point Repair Attachment

RESOLUTION NO. 15331

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$4,563.43 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 1402 E. 9TH STREET, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

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

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

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council ratifies and approves the contract for repair of the sanitary sewers at 1402 E. 9th St with Parker Excavating, Inc., Project No. 20-059 (WWAN03) awarded to said bidder in the amount of \$4,563.43.

SECTION 2.

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

SECTION 3.

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

SECTION 4.

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

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 14, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

2021-2023 Emergency Sanitary Sewer Point Repair					1402 E 9th St Estimate		
Date: 5/11/2023					K.R. Swerdfeger Construction, Inc.	FRPHI ECS & Landscape, Inc.	Parker Excavating, Inc.
Project Number: 20-059 (WWAN03)							
Item	Description	Estimated					
1	Remove and Replace 8" PVC Less than 10' Deep	1-20	LF	15	\$ 2,850.00	\$ 5,475.00	\$ 1,875.00
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
2	Remove and Replace 8" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
3	Remove and Replace 10" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
4	Remove and Replace 10" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
5	Remove and Replace 12" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
6	Remove and Replace 12" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
7	Remove and Replace 15" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
8	Remove and Replace 15" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
9	Remove and Replace 4" Service Tap Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
10	Remove and Replace 4" Service Tap More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
11	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 8" and 10" Pipe	1-20	LF	15	\$ 1,425.00	\$ 1,020.00	\$ 1,425.00
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
12	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
13	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
14	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
15	Remove and Replace 7" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
16	Remove and Replace 6" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
17	Remove and Replace 4" Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
18	Remove and Replace Standard Curb and Gutter	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
19	Install Extra Lean Concrete (FlowFill)	1-20	CY		\$ -	\$ -	\$ -
		21-100	CY		\$ -	\$ -	\$ -
		>100	CY		\$ -	\$ -	\$ -
20	Remove Camera/Cleaning Head/Tap Cutter	HR			\$ -	\$ -	\$ -
21	Remove and Replace 48" Diameter Manhole	EA			\$ -	\$ -	\$ -
22	Remove and Replace 60" Diameter Manhole	EA			\$ -	\$ -	\$ -
23	Reinstate Services	EA		1	\$ 300.00	\$ 150.00	\$ 388.00
24	Mobilization	LS		1	\$ 1,500.00	\$ 1,750.00	\$ 1,650.00
				Total	\$ 6,075.00	\$ 8,395.00	\$ 5,338.00
				With Contingency	\$ 7,290.00	\$ 10,074.00	\$ 6,405.60

CONTRACT CHANGE ORDER
CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS

Project Number : 20-059 (WWAN03) Change Order No. : ONE 7/11/2023 Page 1 of 1

Project Name : 2021, 2022 and 2023 Sanitary Sewer Point Repair
1402 E 9th St

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

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

Bid Item No.	Description of Changes	Decrease Contract By	Increase Contract By
1	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (21-100LF)	(\$1,125.00)	
2	ASPHALT PATCH – 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE (<20LF)	(\$95.00)	
5	TRAFFIC CONTROL		\$445.43
TOTAL (Decrease) / Increase		(\$1,220.00)	\$445.43

Net Adjustment This Change Order	\$	(774.57)
Amount of Previous Change Order(s)	\$	0.00
Original Contract Amount	\$	5,338.00
Total Adjusted Contract Amount To Date	\$	4,563.43

Reason For Change: Actual Field Quantities.

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

Prepared by: _____ Date: _____
Associate Engineer II

Reviewed by: _____ Date: _____
Wastewater Engineering Manager

Accepted by: _____ Date: _____
Contractor's Representative

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

Approved by: _____ Date: _____
Director of Wastewater



20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
1402 E 9th St





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$3,486.00 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 538 HEWITT STREET, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

SUMMARY:

This Resolution ratifies and approves award of a construction contract to Parker Excavating, Inc. for emergency sanitary sewer point repairs at 538 Hewitt St.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

While performing a routine inspection of sewer mains, the Wastewater Department collection crew got the camera stuck near 538 Hewitt St. An emergency repair was necessary to retrieve the camera so a back-up or a sanitary sewer overflow would not occur.

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

The cost breakdown for the project is as follows:

<u>Sanitary Sewer Replacement-related</u>			
<u>Total:</u>	\$	3,486.00	100%

Surface Improvement Related

<i>Total:</i>	\$	0.00	0%
<i>Grand Total:</i>	\$	3,486.00	100%

FINANCIAL IMPLICATIONS:

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

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

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

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 08-14-23 538 Hewitt St Emergency Point Repair Attachment

RESOLUTION NO. 15332

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$3,486.00 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 538 HEWITT STREET, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

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

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

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council ratifies and approves the contract for repair of the sanitary sewers at 538 Hewitt St with Parker Excavating, Inc., Project No. 20-059 (WWAN03) awarded to said bidder in the amount of \$3,486.00.

SECTION 2.

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

SECTION 3.

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

SECTION 4.

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

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 14, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

2021-2023 Emergency Sanitary Sewer Point Repair					538 Hewitt St Estimate		
Date4/27/2023					K.R. Swerdfeger Construction, Inc.	FRPHI ECS & Landscape, Inc.	Parker Excavating, Inc.
Project Number: 20-059 (WWAN03)							
Item	Description	Estimated					
1	Remove and Replace 8" PVC Less than 10' Deep	1-20	LF	10	\$ 1,900.00	\$ 3,650.00	\$ 1,250.00
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
2	Remove and Replace 8" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
3	Remove and Replace 10" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
4	Remove and Replace 10" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
5	Remove and Replace 12" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
6	Remove and Replace 12" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
7	Remove and Replace 15" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
8	Remove and Replace 15" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
9	Remove and Replace 4" Service Tap Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
10	Remove and Replace 4" Service Tap More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
11	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 8" and 10" Pipe	1-20	LF	15	\$ 1,425.00	\$ 1,020.00	\$ 1,425.00
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
12	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
13	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
14	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
15	Remove and Replace 7" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
16	Remove and Replace 6" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
17	Remove and Replace 4" Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
18	Remove and Replace Standard Curb and Gutter	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
19	Install Extra Lean Concrete (FlowFill)	1-20	CY	8	\$ 1,320.00	\$ 2,280.00	\$ 1,336.00
		21-100	CY		\$ -	\$ -	\$ -
		>100	CY		\$ -	\$ -	\$ -
20	Remove Camera/Cleaning Head/Tap Cutter	HR		2	\$ 650.00	\$ 500.00	\$ 996.00
21	Remove and Replace 48" Diameter Manhole	EA			\$ -	\$ -	\$ -
22	Remove and Replace 60" Diameter Manhole	EA			\$ -	\$ -	\$ -
23	Reinstate Services	EA			\$ -	\$ -	\$ -
24	Mobilization	LS		1	\$ 1,500.00	\$ 1,750.00	\$ 1,650.00
				Total	\$ 6,795.00	\$ 9,200.00	\$ 6,657.00
With Contingency					\$ 8,154.00	\$ 11,040.00	\$ 7,988.40

CONTRACT CHANGE ORDER
CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS

Project Number : 20-059 (WWAN03) Change Order No. : ONE 7/17/2023 Page 1 of 1

Project Name : 2021, 2022 and 2023 Sanitary Sewer Point Repair
538 Hewit St

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

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

Bid Item No.	Description of Changes	Decrease Contract By	Increase Contract By
1	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (1-20LF)	(\$1,250.00)	
2	ASPHALT PATCH – 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE (1-20LF)	(\$1,425.00)	
3	INSTALL EXTRA LEAN CONCRETE (FLOWFILL) (1-20CY)	(\$1,336.00)	
4	REMOVE CAMERA / CLEANING HEAD / TAP CUTTER		\$2,490.00
5	MOBILIZATION	(\$1,650.00)	
TOTAL (Decrease) / Increase		(\$5,661.00)	\$2,490.00

Net Adjustment This Change Order	\$	(3,171.00)
Amount of Previous Change Order(s)	\$	0.00
Original Contract Amount	\$	6,657.00
Total Adjusted Contract Amount To Date	\$	3,486.00

Reason For Change: Actual Field Quantities.

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

Prepared by: _____ Date: _____
Associate Engineer II

Reviewed by: _____ Date: _____
Wastewater Engineering Manager

Accepted by: _____ Date: _____
Contractor's Representative

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

Approved by: _____ Date: _____
Director of Wastewater



20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
538 Hewitt St





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 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 AMENDING RESOLUTION NO. 15237 TO UPDATE THE ACCOUNT NUMBER DESIGNATED TO PAY COSTS ASSOCIATED WITH PROJECT 23-067, ASPHALT IMPROVEMENTS - PRAIRIE AVENUE (PUEBLO BOULEVARD TO MESA AVENUE)

SUMMARY:

This Resolution amends Resolution No. 15237 to correct the finance account number designated to pay costs associated with a construction contract awarded to Project 23-067, Asphalt Improvements - Prairie Avenue (Pueblo Boulevard to Mesa Avenue).

PREVIOUS COUNCIL ACTION:

Resolution No. 15237 was approved by the City Council on May 22, 2023, approving the award of a construction contract to perform asphalt repairs on Prairie Avenue between Pueblo Boulevard and Mesa Avenue. The resolution also stated that project costs would be paid from account Project No. CI2309, Road and Street Repairs.

BACKGROUND:

The fund balance in account Project CI2309 is insufficient to cover the full award amount (including contingencies) for Project No. 23-067 after considering other contract obligations assigned to the account. Costs associated with this contract should instead be charged to account Project HUAN01.

FINANCIAL IMPLICATIONS:

If this resolution is approved, funds for this project in the amount of \$1,254,357.00 (including contingencies) will be paid from account Project No. HUAN01, Street Resurfacing.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution

STAKEHOLDER PROCESS:

Not applicable to this Resolution

ALTERNATIVES:

If this Resolution is not approved, the account to which project costs are to be charged will be overdrawn.

RECOMMENDATION:

Approval of the Resolution

ATTACHMENTS:

None

RESOLUTION NO. 15333

A RESOLUTION AMENDING RESOLUTION NO. 15237 TO UPDATE THE ACCOUNT NUMBER DESIGNATED TO PAY COSTS ASSOCIATED WITH PROJECT 23-067, ASPHALT IMPROVEMENTS - PRAIRIE AVENUE (PUEBLO BOULEVARD TO MESA AVENUE)

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Section 4 of Resolution No. 15237 is deleted in its entirety and amended to read as follows:

SECTION 4

Funds for Project No. 23-067 (including contingencies and additional work) shall be paid from account Project HUAN01, Street Resurfacing.

SECTION 2.

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 3.

This Resolution shall become effective immediately on passage and approval.

INTRODUCED: August 14, 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: August 14, 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: A RESOLUTION FINDING SUBSTANTIAL COMPLIANCE WITH COLORADO REVISED STATUTES SECTION 31-12-107 (1) OF THE PETITION FOR THE 10.74-ACRE AREA COMMONLY KNOWN AS THE DORCY COMMUNITY HOUSING ANNEXATION, AND SETTING A PUBLIC HEARING BEFORE THE CITY COUNCIL IN COUNCIL CHAMBERS ON SEPTEMBER 25, 2023 IN ACCORDANCE WITH COLORADO REVISED STATUTES, SECTIONS 31-12-104 AND 31-12-105 ESTABLISHING ELIGIBILITY FOR ANNEXATION UNDER THE MUNICIPAL ANNEXATION ACT OF 1965

SUMMARY:

The City Clerk received an annexation petition for a 10.74-acre area located south of Red Creek Springs Road, north of Regency Park 10th Filing, and west of The Meadows Subdivision, Filing 4. This Resolution finds the annexation petition is in substantial compliance with state annexation statutes and sets the date of September 25, 2023, for a public hearing. The date for the first reading of the Ordinance for Annexation is scheduled for September 11, 2023.

PREVIOUS COUNCIL ACTION:

Resolution No. 14991, preliminarily determining that the petition for annexation is valid under the provisions of Colorado Revised Statutes, section 31-12-104(1)(a) and 31-12-107(1), tabling final action of the petition for a period of not more than 180 days and referring the petition to the Planning and Zoning Commission for review and recommendation was approved on September 12, 2022, by City Council.

Resolution No. 15145, extending the tabling of final action of the petition for a period of not more than 180 days was approved on February 13, 2023.

BACKGROUND:

On June 13, 2022, the petitioner, Kim Bowman, on behalf of Posada, Inc., submitted an annexation petition for the Dorcy Community Housing Annexation totaling 10.74-acres. This Resolution determines that the Petition for Annexation is found and determined to be in substantial compliance with the provisions of Colorado Revised Statutes, Section 31-12-107(1). The Resolution also sets a public hearing date for September 25, 2023 to determine if the area proposed to be annexed meets the applicable requirements of Colorado Revised Statutes, Sections 31-12-104 and 31-12-105 to establish eligibility for annexation under the Municipal Annexation Act of 1965. It also directs the City Clerk to publish notice of the public hearing once a week for four successive weeks in the Pueblo Chieftain.

By approving the attached resolution, City Council finds the annexation petition is in substantial compliance with state annexation statutes and sets the date of September 25, 2023, for a public hearing. The date for the first presentation of the Ordinance for Annexation is scheduled for September 11, 2023.

FINANCIAL IMPLICATIONS:

The Petitioner acknowledges and agrees that upon the annexation of the area proposed to be annexed, the area shall become subject to the Charter, ordinances, resolutions, rules and regulations of the City, but that the City shall have no obligation to furnish or extend municipal services, including but not limited to sanitary sewer services, to the area proposed to be annexed.

The City of Pueblo will provide police and fire protection services to the property, in addition the public roads and sanitary sewer main extensions will be maintained by the City of Pueblo once they have been constructed and accepted by the City.

BOARD/COMMISSION RECOMMENDATION:

The City of Pueblo Planning and Zoning Commission recommended approval of the Dorcy Community Housing Annexation at their December 14, 2022 meeting.

STAKEHOLDER PROCESS:

Copies of the Petition for Annexation will be sent by registered mail by the City Clerk, the Board of County Commissioners, the County Attorney of Pueblo County and to any school district or special district having territory within the area to be annexed. Copies of an Annexation Impact Report will be filed with all taxing entities as required by Colorado Revised Statutes.

ALTERNATIVES:

None.

RECOMMENDATION:

The City Planning staff has reviewed the annexation petition for compliance with Section 31-12-107(1), of the Colorado Revised Statutes and recommends that City Council determine the petition meets the requirements of the Colorado Revised

Statutes and set a public hearing date for September 25, 2023, to determine the annexation request meets the requirements of Colorado Revised Statutes 31-12-104 and 31-12-105.

ATTACHMENTS:

1. Combined Attachments Dorcy Annexation

RESOLUTION NO. 15334

A RESOLUTION FINDING SUBSTANTIAL COMPLIANCE WITH COLORADO REVISED STATUTES SECTION 31-12-107 (1) OF THE PETITION FOR THE 10.74-ACRE AREA COMMONLY KNOWN AS THE DORCY COMMUNITY HOUSING ANNEXATION, AND SETTING A PUBLIC HEARING BEFORE THE CITY COUNCIL IN COUNCIL CHAMBERS ON SEPTEMBER 25, 2023 IN ACCORDANCE WITH COLORADO REVISED STATUTES, SECTIONS 31-12-104 AND 31-12-105 ESTABLISHING ELIGIBILITY FOR ANNEXATION UNDER THE MUNICIPAL ANNEXATION ACT OF 1965

WHEREAS, a Petition for Annexation of the area described in Section 1 hereof has been filed with the City Clerk; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The Petition for Annexation ("Petition") of the following described area situated in Pueblo County, Colorado, is hereby found and determined to be in substantial compliance with the provisions of C.R.S. §31-12-104(1)(a) and §31-12-107(1):

AREA TO BE ANNEXED:

A parcel of land located in the SE ¼ of the SW ¼ of Section 04, Township 21 South, Range 65 West of the 6th P.M. the County of Pueblo and State of Colorado, being more particularly described as follows:

Considering the centerline of Starling Drive in The Meadows, Filing No. 4, according to the recorded plat thereof as filed for record on January 14, 1980 at Reception No. 628024 in the Pueblo County records to bear S. 02°48'49" W., and all bearings contained herein being relative thereto. Both ends of said centerline are monumented with a lead and tack in a monument box.

Beginning at the Northeast corner of Lot 1, Block 18 of Regency Park, 10th Filing, according to the recorded plat thereof as filed for record on January 31, 1979 at Reception No. 597379 in the Pueblo County records; thence N. 00°54'08" E., a distance of 1,301.06 feet to a point on the southerly right-of-way line of Red Creek Springs Road as presently located; thence S. 89°05'52" E. along said southerly right-of-way line a distance of 255.71 feet to a point on the westerly line of Vinci Subdivision, a Special Area Plan according to the recorded plat thereof as filed for record on July 5, 2011 at Reception No. 1879494 in the Pueblo County records; thence S. 01°00'14" W. along said westerly line a distance of 289.88 feet to the Southwest corner of said Vinci Subdivision, a Special Area Plan; thence S. 89°01'48" E. along the southerly line of said Vinci Subdivision, a Special Area Plan a distance

of 151.56 feet to the Southeast corner of said Vinci Subdivision, a Special Area Plan, said point also being on the westerly line of The Meadows, Filing No. 4 according to the recorded plat thereof as filed for record on January 14, 1980 at Reception No. 628024 and the westerly line of The Meadows, Filing No. 3 according to the recorded plat thereof as filed for record on January 31, 1979 at Reception No. 597382 both in the Pueblo County records; thence S.02°48'49"W. along said westerly line a distance of 1,010.01 feet to the Southwest corner of said The Meadows, Filing No. 3, said point also being on the northerly line of the aforementioned Regency Park, 10th Filing; thence N. 89°20'09" W. along said northerly line a distance of 373.08 feet to the Point of Beginning.

Containing 10.74 acres, more or less.

SECTION 2.

A public hearing to determine if the area proposed to be annexed meets the applicable requirements of Colorado Revised Statutes, Sections 31-12-104 and 31-12-105 to establish eligibility for annexation under the Municipal Annexation Act of 1965 shall be held before the City Council in Council Chambers, Second Floor, City Hall, One City Hall Place, Pueblo Colorado on Monday, September 25, 2023, commencing at 7:00 p.m. or as soon thereafter as City Council business allows.

SECTION 3.

The City Clerk shall publish notice of the public hearing once a week for four successive weeks in the Pueblo Chieftain. The first publication of such notice shall be at least thirty (30) days prior to the date of the hearing. A copy of the published notice, together with a copy of the Petition for Annexation, shall be sent by registered mail by the Clerk to the Board of County Commissioners and the County Attorney of Pueblo County and to any school district or special district having territory within the area to be annexed at least twenty-five days prior to the date of the hearing.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of the Resolution.

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 14, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

CITY OF PUEBLO
ANNEXATION INFORMATION SHEET

Attached is a blank Petition for Annexation to be completed and filed with the City Clerk of the City of Pueblo together with an original and twenty-four (24) prints of an annexation map and satisfactory evidence of the names and addresses of all the owners of land within the area proposed to be annexed. All petitioners must sign the Petition for Annexation within 180 days before the date of filing with the City Clerk. Prior to filing with the City Clerk all documents must be reviewed by the City's Director of Land Use.

TO BE COMPLETED BY PETITIONERS

Name of Annexation:

Dorcy Community Housing Annexation

Location and size in acres: Section 04, Township 21 South,
Range 65, West of the 6th P.M., County of Pueblo, Colorado,
 acres.

100 % of Owners 1; Less than 100% of owners

School District No. 60; Special District: Regional Library, SE Water, Lower
Arkansas Water, Pueblo Conservancy

Annexation Agreement: The City requires the Petitioner to enter into an Annexation Agreement prior to the effective date of the annexation. Such Agreement shall constitute conditions of annexation as effectively as if set forth in the Petition For Annexation.

For Office Use Only: Date Reviewed by Director of Land Use

Date Petition Filed Filing Fee \$ Paid

Resolution Finding Substantial Compliance adopted ,

Date of Public Hearing ; Notice of Public Hearing Published: ,
 , , and .

Copy of published Notice and Petition For Annexation sent by Registered Mail on to Pueblo County Board of County Commissioners, Pueblo County Attorney, School District , Southeastern Water Conservancy District, Pueblo Library District, Other and special district .

Upon receipt of this Annexation Information Sheet, Petition For Annexation, 24 prints of the annexation map, and evidence of ownership, the City Clerk will forward copies of the Annexation Information Sheet and Petition for Annexation together with the evidence of ownership and 20 prints of the annexation map to the Director of Land Use and refer the Petition For Annexation to the City Council as a communication.

**CITY OF PUEBLO
PETITION FOR ANNEXATION**

TO THE CITY COUNCIL OF PUEBLO, COLORADO:

Pursuant to the Municipal Annexation Act of 1965 and C.R.S. §31-12-107(1) the undersigned landowners within the area proposed for annexation hereby petition the City Council of the City of Pueblo for annexation to the City of Pueblo (herein "City") of the following described unincorporated area located in the County of Pueblo, State of Colorado:

See Attached Signature Sheet

As ground for this annexation, Petitioners state:

1. It is desirable and necessary that the area herein described be annexed to the City.
2. Not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with existing boundaries of the City.
3. This petition for annexation has been signed by persons comprising more than fifty percent (50%) of the landowners in the area proposed to be annexed and owning more than fifty percent (50%) of the area, excluding public street, alleys, and any land owned by the City.
4. A community of interest exists between the area proposed to be annexed and the City.
5. The area proposed to be annexed is urban or will be urbanized in the near future.
6. The area proposed to be annexed is integrated with or is capable of being integrated with the City.

7. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate:
 - (a) is divided into separate parts or parcels without the written consent of the landowners thereof, unless such tracts or parcels are separated by a dedicated street, road or other public way; or,
 - (b) comprises twenty (20) acres or more and which, together with the buildings and improvements situated thereon has an assessed value in excess of \$200,000.00 for ad valorem tax purposes for the year preceding the annexation, is included within the territory proposed to be annexed without the written consent of the landowner or landowners.
8. The mailing address of each signer, the legal description of the land owned by each landowner and the date of signing of each signature are shown on this petition.
9. Attached to this petition is the affidavit of the circulator of this petition that each signature hereon is the signature of the person whose name it purports to be.
10. Accompanying this petition are an original and twenty-four (24) prints of an annexation map containing the following information:
 - (a) A written legal description of the boundaries of the area proposed to be annexed;
 - (b) A map showing the boundary of the area proposed to be annexed. (Such map shall be prepared by and contain the seal of a Colorado registered engineer or land surveyor);
 - (c) Within the annexation boundary map there is shown the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks;
 - (d) Next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the City and the area proposed to be annexed with the dimension of such boundary.
11. The area proposed to be annexed is not presently a part of any incorporated city or town.
12. No part of the area proposed to be annexed is more than three miles in any direction from any point of the boundaries of the City as such was established more than one year before this annexation will take place.
13. As condition of and in consideration of the City annexing the area proposed to be annexed, Petitioners, for themselves and their heirs, personal representatives, successors and assigns:
 - (a) Waive and release all previously acquired or existing vested property rights attached to or established with respect to the area proposed to be annexed and acknowledge and agree that the annexation of the area proposed to be annexed is

not a site specific development plan and no vested property right shall attach to or be established with respect to the area proposed to be annexed.

- (b) Acknowledge and agree that upon the annexation of the area proposed to be annexed and, subject to the provisions of the Annexation Agreement, the area shall become subject to the Charter, ordinances, resolutions, rules and regulations of the City, but that the City shall have no obligation to furnish or extend municipal services; including, but not limited to sanitary sewer services, to the area proposed to be annexed.
- (c) “Vested property right” and “site specific development plan” shall have the same meaning as set forth in Chapter 12 of Title XVII of the 1971 Code of Ordinances of the City and Article 60, Title 24, C.R.S.

14. Petitioners consent and agree to the following conditions:

- (a) Petitioners and the City shall enter into an Annexation Agreement prior to the effective date of this annexation.
- (b)
- (c)
- (d)
- (e)

WHEREFORE, Petitioners request that the City Council of Pueblo approve the annexation of the above described area to the City of Pueblo (all Petitioners must sign this Petition within 180 days prior to the date of filing with the City Clerk.

LEONARD

827 E. 4th
Pueblo, CO

BEG SE COR SW4 4-21-

8/12/22

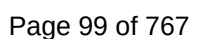
THENCE S 1010.3 FT TO BEG

[illegible]


Circulator's Signature

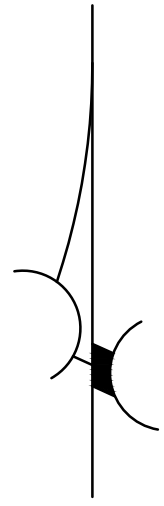
Witness my hand and official seal.
My commission expires: Sept. 15, 2024

Patricia Vega Scherman
Notary Public (or official title)

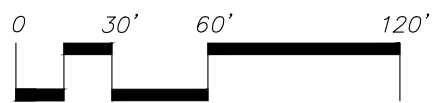


ANNEXATION TO THE CITY OF PUEBLO

A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 4,
TOWNSHIP 21 SOUTH, RANGE 65 WEST OF THE 6TH P.M.
COUNTY OF PUEBLO, STATE OF COLORADO



SCALE: 1" = 60'



BASIS OF BEARINGS:

A PORTION OF THE CENTERLINE OF STARLING DRIVE MONUMENTED ON BOTH ENDS
WITH FOUND MONUMENT BOXES WITH LEAD AND TACK.
BEARS S. 02°48'49" W.

LEGEND



EXISTING CITY LIMITS LINE



PROPOSED CITY LIMITS LINE

1. AREA TO BE ANNEXED:

Beginning at the Northeast corner of Lot 1, Block 18 of Regency Park, 10th Filing, according to the recorded plat thereof as filed for record on January 31, 1979 at Reception No. 597379 in the Pueblo County records; thence N. 00°54'08" E., a distance of 1,301.06 feet to a point on the southerly right-of-way line of Red Creek Springs Road as presently located; thence S. 89°05'52" E. along said southerly right-of-way line a distance of 255.71 feet to a point on the westerly line of Vinci Subdivision, a Special Area Plan according to the recorded plat thereof as filed for record on July 5, 2011 at Reception No. 1879494 in the Pueblo County records; thence S. 01°00'14" W. along said westerly line a distance of 289.88 feet to the Southwest corner of said Vinci Subdivision, a Special Area Plan; thence S. 89°01'48" E. along the southerly line of said Vinci Subdivision, a Special Area Plan a distance of 151.56 feet to the Southeast corner of said Vinci Subdivision, a Special Area Plan, said point also being on the westerly line of The Meadows, Filing No. 4 according to the recorded plat thereof as filed for record on January 14, 1980 at Reception No. 628024 and the westerly line of The Meadows, Filing No. 3 according to the recorded plat thereof as filed for record on January 31, 1979 at Reception No. 597382 both in the Pueblo County records; thence S. 02°48'49" W. along said westerly line a distance of 1,010.01 feet to the Southwest corner of said The Meadows, Filing No. 3, said point also being on the northerly line of the aforementioned Regency Park, 10th Filing; thence N. 89°20'09" W. along said northerly line a distance of 373.08 feet to the Point of Beginning.

Containing 10.74 acres, more or less.

2. PROPOSED NEW CITY LIMITS LINE:

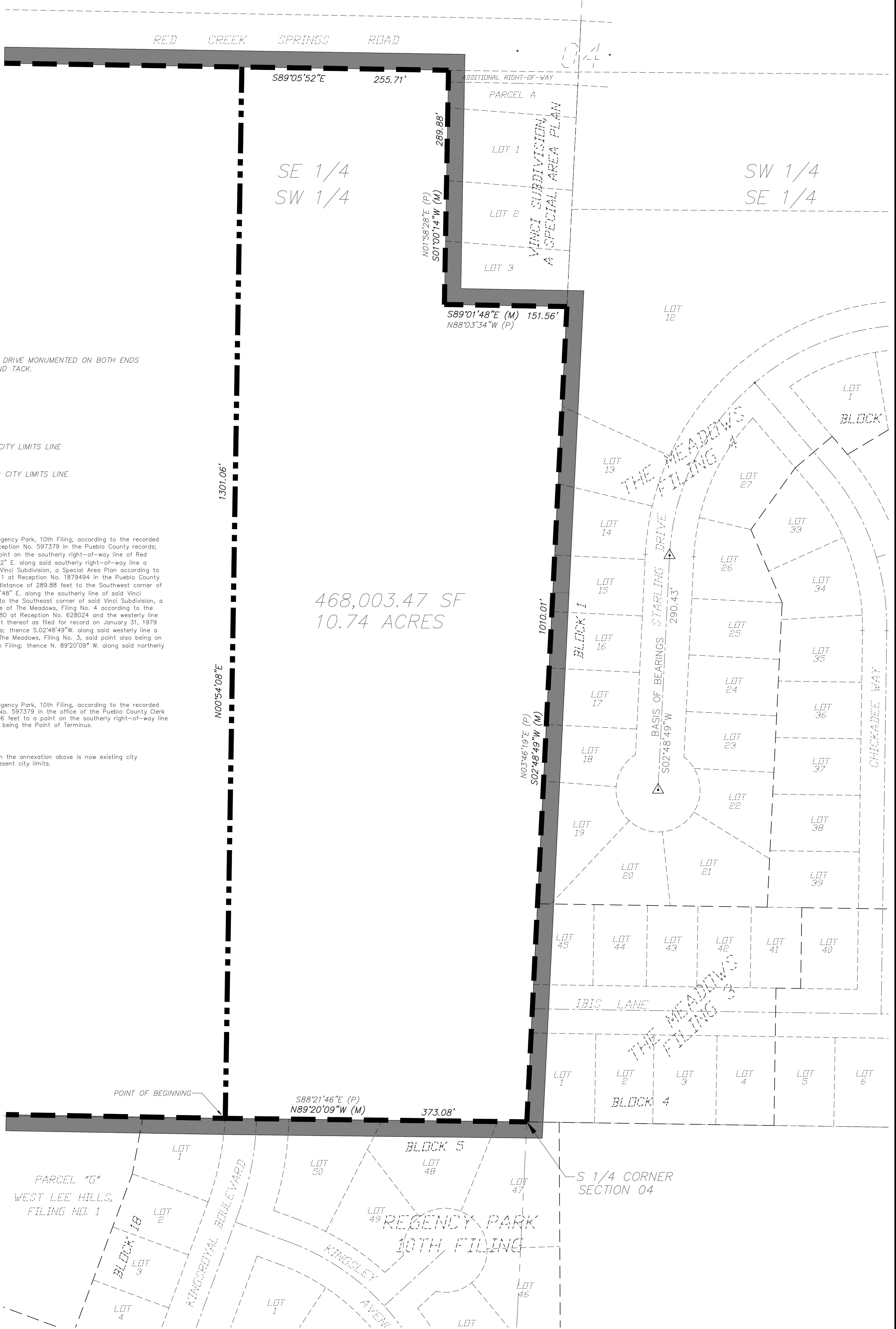
Beginning at the Northeast corner of Lot 1, Block 18 of Regency Park, 10th Filing, according to the recorded plat as filed for record on January 31, 1979 at Reception No. 597379 in the office of the Pueblo County Clerk and Recorder; thence N. 00°54'08" E., a distance of 1,301.06 feet to a point on the southerly right-of-way line of Red Creek Springs Road as presently located, said point being the Point of Terminus.

3. CERTIFICATION OF PERIMETER:

At least one-sixth of the boundary of the land described in the annexation above is now existing city limits line. The complete annexation is within 3 miles of present city limits.

NORTHSTAR ENGINEERING AND SURVEYING, INC.
111 E. 5th Street
Pueblo, Colorado 81003

By:
Michael Leland Cuppy
Colorado Registered Professional
Land Surveyor No. 38485



NORTHSTAR ENGINEERING AND SURVEYING, INC. 111 E. 5TH ST. PUEBLO, CO 81003 (719)544-6823 (719)544-6825 FAX			
TITLE: DORCY COMMUNITY HOUSING ANNEXATION			
SCALE: 1" = 60'	DRAWN BY: DJA	JOB NO. 2102201	FILE: 2102201-ANNEX.DWG
DATE: 08-09-2022	CHECKED BY: MLC	SHEET 1 OF 1	



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 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 ESTABLISHING AN APPROVED LIST OF CONTRACTORS TO PERFORM EMERGENCY STORM SEWER POINT REPAIRS DURING CALENDAR YEARS 2023 THROUGH 2026 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE THE SAME

SUMMARY:

This Resolution will establish an approved list of contractors to perform emergency storm sewer point repairs during calendar years 2023 through 2026.

PREVIOUS COUNCIL ACTION:

City Council has historically established such lists for this purpose with the most recent list approved for calendar years 2020 and 2022.

BACKGROUND:

The City of Pueblo owns and operates a storm sewer system for the purpose of conveying stormwater to outfall to rivers and creeks. Portions of the storm sewer system are more than 100 years old and were constructed using clay tile, corrugated metal, and brick. From time to time, the City discovers broken pipes or obstructions in pipes that cannot be cleared. In such emergency cases, point repairs must be made in an expeditious manner by excavating and replacing the damaged storm sewer pipes.

Storm sewer problems requiring point repairs are most often discovered when residents report problems such as sinkholes and storm sewer backups. It is often not possible to anticipate when and where point repairs will be needed. Between the time that the problem occurs and the time it is repaired, the public and nearby properties may be at risk of health and safety issues, along with property damage due to flooding. It is in the best interest of the community that storm sewer point repairs be completed as rapidly as possible after discovery.

The City of Pueblo normally requires competitive bids for construction projects in order to assure that costs are controlled. The City also has provisions that allow the Mayor to approve emergency construction projects without bidding and without prior City Council approval. This Resolution, authorizing contracts from 2023 through 2026 Storm Sewer Point Repair will provide both competitive bid cost controls and rapid response capability by establishing a list of qualified contractors who have provided a list of unit prices.

The Purchasing Department solicited unit cost competitive bids from contractors for various elements of storm sewer point repair, including per-linear-foot pipe replacement costs for differing pipe sizes and depths, unit costs for manholes, unit costs for curb-and-gutter repair, and mobilization costs. Three bids were received. A bid summary sheet is attached. The three responsive bidders form a list of qualified contractors to whom point repair projects can be offered.

When a point repair project arises, Stormwater Department staff will evaluate the repairs needed, determine the unit quantities for the work required and determine which of the qualified vendors would be able to complete the repairs at the lowest cost by using the unit prices provided by each vendor in their bid. The point repair will then be offered to the vendor providing the lowest cost. The vendor will be required to sign a standard City construction contract for each project. The project will then proceed immediately without further Council action until after the project is complete.

FINANCIAL IMPLICATIONS:

Funding for this project will come from the “Stormwater Point Repairs and Pipe Cleaning” capital project budget funded by the Stormwater Utility. Funding is available and has been budgeted, appropriated, and allocated to Project No. 23-040 (SWAN03).

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Alternative No. 1 – No Action

Under this alternative, the City would not create an approved list of contractors to make repairs to the existing storm sewer system if and when emergencies occur. The risk of flooding due to storm sewer overflows and backups increases which potentially causes property damage and public safety issues.

Alternative No. 2 – Place Mains on the Rehabilitation List

Under this alternative, the City would make no immediate improvements and would not create an approved list of contractors for emergency repairs. Any emergency problem areas would be placed on a rehabilitation list and prioritized by the level of importance. This alternative would significantly increase the time it takes to repair the damaged system and there would still be a risk of property damage and public safety issues due

to flooding until the system is repaired.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Evaluation Tabulation

RESOLUTION NO. 15335

A RESOLUTION ESTABLISHING AN APPROVED LIST OF CONTRACTORS TO PERFORM EMERGENCY STORM SEWER POINT REPAIRS DURING CALENDAR YEARS 2023 THROUGH 2026 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE THE SAME

WHEREAS, proposals for performing storm sewer point repairs under Project No. 23-040 have been received and examined, and;

WHEREAS, the proposals from Russ Grading and Excavating Inc., K.R. Swerdfeger Construction, Inc., and Parker Excavating, Inc., (collectively the "Approved List") have been determined to be responsive; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Council hereby authorizes, subject to an unexpended balance of appropriations therefore, that upon approval of the Mayor, contracts for effecting emergency storm sewer point repairs may be awarded from time to time, to the lowest bidder on the Approved List, as determined by unit prices for elements of construction submitted by responsive bidders under Project No. 23-040, based on the requirements and unit quantities of each repair project as may arise, and that the same be awarded to said bidder in the required amount at the time of each project.

SECTION 2.

Funds for Project 23-040 (SWAN03) shall be from the "Stormwater Point Repairs and Pipe Cleaning" capital project budget funded by the Stormwater Utility Enterprise.

SECTION 3.

The Purchasing Agent is hereby authorized to execute said contract on behalf of Pueblo, a Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest the same. Any such contract shall be submitted to the City Council for ratification and approval.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution and the contract to implement the transactions described therein.

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 14, 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. 23-040 (SWAN03)

2023-2026 Emergency Storm Sewer Point Repair

RESPONSE DEADLINE: July 18, 2023 at 10:00 am

Report Generated: Tuesday, July 18, 2023

VENDORS

Vendor
Russ Grading & Excavating LLC
Parker Excavating, Inc.
K.R. Swerdfeger Construction, Inc.

EVALUATION TABULATION
IFB No. 23-040 (SWAN03)
2023-2026 Emergency Storm Sewer Point Repair

PRICING TABLE

	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
Line Item	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
1	Remove Existing Pipe and Replace w/12" Reinforced Concrete Pipe Less than 8' Deep	1-20	LF	\$311.00	\$214.00	\$277.00
2	Remove Existing Pipe and Replace w/12" Reinforced Concrete Pipe Less than 8' Deep	21-100	LF	\$259.00	\$198.00	\$267.00
3	Remove Existing Pipe and Replace w/12" Reinforced Concrete Pipe Less than 8' Deep	>100	LF	\$217.00	\$191.00	\$257.00
4	Remove Existing Pipe and Replace w/12" Reinforced Concrete Pipe Greater than 8' Deep	1-20	LF	\$348.00	\$238.00	\$290.00
5	Remove Existing Pipe and Replace w/12" Reinforced Concrete Pipe Greater than 8' Deep	21-100	LF	\$285.00	\$222.00	\$280.00
6	Remove Existing Pipe and Replace w/12" Reinforced Concrete Pipe Greater than 8' Deep	>100	LF	\$236.00	\$215.00	\$270.00
7	Remove Existing Pipe and Replace w/15" Reinforced Concrete Pipe Less than 8' Deep	1-20	LF	\$320.00	\$220.00	\$277.00
8	Remove Existing Pipe and Replace w/15" Reinforced Concrete Pipe Less than 8' Deep	21-100	LF	\$270.00	\$204.00	\$267.00
9	Remove Existing Pipe and Replace w/15" Reinforced Concrete Pipe Less than 8' Deep	>100	LF	\$224.00	\$197.00	\$257.00
10	Remove Existing Pipe and Replace w/15" Reinforced Concrete Pipe Greater than 8' Deep	1-20	LF	\$357.00	\$244.00	\$290.00

EVALUATION TABULATION
IFB No. 23-040 (SWAN03)
2023-2026 Emergency Storm Sewer Point Repair

Line Item	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
11	Remove Existing Pipe and Replace w/15" Reinforced Concrete Pipe Greater than 8' Deep	21-100	LF	\$297.00	\$228.00	\$280.00
12	Remove Existing Pipe and Replace w/15" Reinforced Concrete Pipe Greater than 8' Deep	>100	LF	\$243.00	\$221.00	\$270.00
13	Remove Existing Pipe and Replace w/18" Reinforced Concrete Pipe Less than 8' Deep	1-20	LF	\$338.00	\$232.00	\$290.00
14	Remove Existing Pipe and Replace w/18" Reinforced Concrete Pipe Less than 8' Deep	21-100	LF	\$283.00	\$216.00	\$255.00
15	Remove Existing Pipe and Replace w/18" Reinforced Concrete Pipe Less than 8' Deep	>100	LF	\$240.00	\$209.00	\$225.00
16	Remove Existing Pipe and Replace w/18" Reinforced Concrete Pipe Greater than 8' Deep	1-20	LF	\$375.00	\$256.00	\$300.00
17	Remove Existing Pipe and Replace w/18" Reinforced Concrete Pipe Greater than 8' Deep	21-100	LF	\$314.00	\$240.00	\$265.00
18	Remove Existing Pipe and Replace w/18" Reinforced Concrete Pipe Greater than 8' Deep	>100	LF	\$256.00	\$233.00	\$235.00
19	Remove Existing Pipe and Replace w/24" Reinforced Concrete Pipe Less than 8' Deep	1-20	LF	\$426.00	\$244.00	\$327.00
20	Remove Existing Pipe and Replace w/24" Reinforced Concrete Pipe Less than 8' Deep	21-100	LF	\$350.00	\$228.00	\$275.00
21	Remove Existing Pipe and Replace w/24" Reinforced Concrete Pipe Less than 8' Deep	>100	LF	\$294.00	\$221.00	\$225.00

EVALUATION TABULATION

IFB No. 23-040 (SWAN03)

2023-2026 Emergency Storm Sewer Point Repair

Line Item	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
22	Remove Existing Pipe and Replace w/24" Reinforced Concrete Pipe Greater than 8' Deep	1-20	LF	\$466.00	\$268.00	\$350.00
23	Remove Existing Pipe and Replace w/24" Reinforced Concrete Pipe Greater than 8' Deep	21-100	LF	\$379.00	\$252.00	\$295.00
24	Remove Existing Pipe and Replace w/24" Reinforced Concrete Pipe Greater than 8' Deep	>100	LF	\$360.00	\$245.00	\$245.00
25	Remove Existing Pipe and Replace w/30" Reinforced Concrete Pipe Less than 8' Deep	1-20	LF	\$483.00	\$252.00	\$402.00
26	Remove Existing Pipe and Replace w/30" Reinforced Concrete Pipe Less than 8' Deep	21-100	LF	\$391.00	\$236.00	\$382.00
27	Remove Existing Pipe and Replace w/30" Reinforced Concrete Pipe Less than 8' Deep	>100	LF	\$331.00	\$229.00	\$362.00
28	Remove Existing Pipe and Replace w/30" Reinforced Concrete Pipe Greater than 8' Deep	1-20	LF	\$525.00	\$264.00	\$426.00
29	Remove Existing Pipe and Replace w/30" Reinforced Concrete Pipe Greater than 8' Deep	21-100	LF	\$420.00	\$260.00	\$406.00
30	Remove Existing Pipe and Replace w/30" Reinforced Concrete Pipe Greater than 8' Deep	>100	LF	\$352.00	\$253.00	\$396.00
31	Remove Existing Pipe and Replace w/36" Reinforced Concrete Pipe Less than 8' Deep	1-20	LF	\$557.00	\$270.00	\$400.00
32	Remove Existing Pipe and Replace w/36" Reinforced Concrete Pipe Less than 8' Deep	21-100	LF	\$447.00	\$254.00	\$350.00

EVALUATION TABULATION

Public Improvement Invitation for Bid - 2023-2026 Emergency Storm Sewer Point Repair

Page 4

EVALUATION TABULATION

IFB No. 23-040 (SWAN03)

2023-2026 Emergency Storm Sewer Point Repair

Line Item	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
33	Remove Existing Pipe and Replace w/36" Reinforced Concrete Pipe Less than 8' Deep	>100	LF	\$381.00	\$247.00	\$300.00
34	Remove Existing Pipe and Replace w/36" Reinforced Concrete Pipe Greater than 8' Deep	1-20	LF	\$599.00	\$296.00	\$425.00
35	Remove Existing Pipe and Replace w/36" Reinforced Concrete Pipe Greater than 8' Deep	21-100	LF	\$479.00	\$280.00	\$375.00
36	Remove Existing Pipe and Replace w/36" Reinforced Concrete Pipe Greater than 8' Deep	>100	LF	\$398.00	\$273.00	\$325.00
37	Remove Existing Pipe and Replace w/42" Reinforced Concrete Pipe Less than 8' Deep	1-20	LF	\$655.00	\$288.00	\$495.00
38	Remove Existing Pipe and Replace w/42" Reinforced Concrete Pipe Less than 8' Deep	21-100	LF	\$519.00	\$272.00	\$475.00
39	Remove Existing Pipe and Replace w/42" Reinforced Concrete Pipe Less than 8' Deep	>100	LF	\$444.00	\$265.00	\$455.00
40	Remove Existing Pipe and Replace w/42" Reinforced Concrete Pipe Greater than 8' Deep	1-20	LF	\$703.00	\$326.00	\$500.00
41	Remove Existing Pipe and Replace w/42" Reinforced Concrete Pipe Greater than 8' Deep	21-100	LF	\$553.00	\$310.00	\$475.00
42	Remove Existing Pipe and Replace w/42" Reinforced Concrete Pipe Greater than 8' Deep	>100	LF	\$465.00	\$303.00	\$465.00
43	Remove Existing Pipe and Replace w/48" Reinforced Concrete Pipe Less than 8' Deep	1-20	LF	\$764.00	\$311.00	\$525.00

EVALUATION TABULATION

Public Improvement Invitation for Bid - 2023-2026 Emergency Storm Sewer Point Repair

EVALUATION TABULATION

IFB No. 23-040 (SWAN03)

2023-2026 Emergency Storm Sewer Point Repair

	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
Line Item	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
44	Remove Existing Pipe and Replace w/48" Reinforced Concrete Pipe Less than 8' Deep	21-100	LF	\$607.00	\$300.00	\$515.00
45	Remove Existing Pipe and Replace w/48" Reinforced Concrete Pipe Less than 8' Deep	>100	LF	\$514.00	\$294.00	\$500.00
46	Remove Existing Pipe and Replace w/48" Reinforced Concrete Pipe Greater than 8' Deep	1-20	LF	\$811.00	\$345.00	\$550.00
47	Remove Existing Pipe and Replace w/48" Reinforced Concrete Pipe Greater than 8' Deep	21-100	LF	\$636.00	\$342.00	\$535.00
48	Remove Existing Pipe and Replace w/48" Reinforced Concrete Pipe Greater than 8' Deep	>100	LF	\$538.00	\$332.00	\$525.00
49	Remove Existing Pipe and Replace w/54" Reinforced Concrete Pipe Less than 8' Deep	1-20	LF	\$895.00	\$387.00	\$600.00
50	Remove Existing Pipe and Replace w/54" Reinforced Concrete Pipe Less than 8' Deep	21-100	LF	\$694.00	\$384.00	\$575.00
51	Remove Existing Pipe and Replace w/54" Reinforced Concrete Pipe Less than 8' Deep	>100	LF	\$596.00	\$374.00	\$550.00
52	Remove Existing Pipe and Replace w/54" Reinforced Concrete Pipe Greater than 8' Deep	1-20	LF	\$943.00	\$429.00	\$625.00
53	Remove Existing Pipe and Replace w/54" Reinforced Concrete Pipe Greater than 8' Deep	21-100	LF	\$731.00	\$426.00	\$600.00
54	Remove Existing Pipe and Replace w/54" Reinforced Concrete Pipe Greater than 8' Deep	>100	LF	\$620.00	\$416.00	\$575.00

EVALUATION TABULATION

Public Improvement Invitation for Bid - 2023-2026 Emergency Storm Sewer Point Repair

EVALUATION TABULATION
IFB No. 23-040 (SWAN03)
2023-2026 Emergency Storm Sewer Point Repair

	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
Line Item	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
55	Remove Existing Pipe and Replace w/60" Reinforced Concrete Pipe Less than 8' Deep	1-20	LF	\$1,009.00	\$453.00	\$625.00
56	Remove Existing Pipe and Replace w/60" Reinforced Concrete Pipe Less than 8' Deep	21-100	LF	\$780.00	\$450.00	\$615.00
57	Remove Existing Pipe and Replace w/60" Reinforced Concrete Pipe Less than 8' Deep	>100	LF	\$661.00	\$440.00	\$600.00
58	Remove Existing Pipe and Replace w/60" Reinforced Concrete Pipe Greater than 8' Deep	1-20	LF	\$1,056.00	\$495.00	\$645.00
59	Remove Existing Pipe and Replace w/60" Reinforced Concrete Pipe Greater than 8' Deep	21-100	LF	\$817.00	\$492.00	\$625.00
60	Remove Existing Pipe and Replace w/60" Reinforced Concrete Pipe Greater than 8' Deep	>100	LF	\$698.00	\$482.00	\$615.00
61	Remove Existing Pipe and Replace w/12" High Performance Polypropylene Pipe Less than 8' Deep	1-20	LF	\$269.00	\$178.00	\$245.00
62	Remove Existing Pipe and Replace w/12" High Performance Polypropylene Pipe Less than 8' Deep	21-100	LF	\$234.00	\$162.00	\$220.00
63	Remove Existing Pipe and Replace w/12" High Performance Polypropylene Pipe Less than 8' Deep	>100	LF	\$197.00	\$155.00	\$175.00
64	Remove Existing Pipe and Replace w/12" High Performance Polypropylene Pipe Greater than 8' Deep	1-20	LF	\$285.00	\$202.00	\$265.00

EVALUATION TABULATION
IFB No. 23-040 (SWAN03)
2023-2026 Emergency Storm Sewer Point Repair

Line Item	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
65	Remove Existing Pipe and Replace w/12" High Performance Polypropylene Pipe Greater than 8' Deep	21-100	LF	\$248.00	\$186.00	\$235.00
66	Remove Existing Pipe and Replace w/12" High Performance Polypropylene Pipe Greater than 8' Deep	>100	LF	\$197.00	\$179.00	\$185.00
67	Remove Existing Pipe and Replace w/15" High Performance Polypropylene Pipe Less than 8' Deep	1-20	LF	\$294.00	\$198.00	\$252.00
68	Remove Existing Pipe and Replace w/15" High Performance Polypropylene Pipe Less than 8' Deep	21-100	LF	\$254.00	\$182.00	\$232.00
69	Remove Existing Pipe and Replace w/15" High Performance Polypropylene Pipe Less than 8' Deep	>100	LF	\$217.00	\$175.00	\$182.00
70	Remove Existing Pipe and Replace w/15" High Performance Polypropylene Pipe Greater than 8' Deep	1-20	LF	\$310.00	\$220.00	\$274.00
71	Remove Existing Pipe and Replace w/15" High Performance Polypropylene Pipe Greater than 8' Deep	21-100	LF	\$267.00	\$205.00	\$244.00
72	Remove Existing Pipe and Replace w/15" High Performance Polypropylene Pipe Greater than 8' Deep	>100	LF	\$206.00	\$198.00	\$194.00
73	Remove Existing Pipe and Replace w/18" High Performance Polypropylene Pipe Less than 8' Deep	1-20	LF	\$310.00	\$203.00	\$250.00

EVALUATION TABULATION
IFB No. 23-040 (SWAN03)
2023-2026 Emergency Storm Sewer Point Repair

Line Item	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
74	Remove Existing Pipe and Replace w/18" High Performance Polypropylene Pipe Less than 8' Deep	21-100	LF	\$268.00	\$200.00	\$223.00
75	Remove Existing Pipe and Replace w/18" High Performance Polypropylene Pipe Less than 8' Deep	>100	LF	\$229.00	\$193.00	\$175.00
76	Remove Existing Pipe and Replace w/18" High Performance Polypropylene Pipe Greater than 8' Deep	1-20	LF	\$325.00	\$225.00	\$267.00
77	Remove Existing Pipe and Replace w/18" High Performance Polypropylene Pipe Greater than 8' Deep	21-100	LF	\$281.00	\$222.00	\$237.00
78	Remove Existing Pipe and Replace w/18" High Performance Polypropylene Pipe Greater than 8' Deep	>100	LF	\$218.00	\$215.00	\$190.00
79	Remove Existing Pipe and Replace w/24" High Performance Polypropylene Pipe Less than 8' Deep	1-20	LF	\$382.00	\$225.00	\$273.00
80	Remove Existing Pipe and Replace w/24" High Performance Polypropylene Pipe Less than 8' Deep	21-100	LF	\$327.00	\$222.00	\$245.00
81	Remove Existing Pipe and Replace w/24" High Performance Polypropylene Pipe Less than 8' Deep	>100	LF	\$280.00	\$215.00	\$195.00
82	Remove Existing Pipe and Replace w/24" High Performance Polypropylene Pipe Greater than 8' Deep	1-20	LF	\$401.00	\$249.00	\$288.00

EVALUATION TABULATION
IFB No. 23-040 (SWAN03)
2023-2026 Emergency Storm Sewer Point Repair

Line Item	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
83	Remove Existing Pipe and Replace w/24" High Performance Polypropylene Pipe Greater than 8' Deep	21-100	LF	\$341.00	\$246.00	\$244.00
84	Remove Existing Pipe and Replace w/24" High Performance Polypropylene Pipe Greater than 8' Deep	>100	LF	\$266.00	\$239.00	\$210.00
85	Remove Existing Pipe and Replace w/30" High Performance Polypropylene Pipe Less than 8' Deep	1-20	LF	\$449.00	\$270.00	\$300.00
86	Remove Existing Pipe and Replace w/30" High Performance Polypropylene Pipe Less than 8' Deep	21-100	LF	\$380.00	\$267.00	\$275.00
87	Remove Existing Pipe and Replace w/30" High Performance Polypropylene Pipe Less than 8' Deep	>100	LF	\$327.00	\$260.00	\$225.00
88	Remove Existing Pipe and Replace w/30" High Performance Polypropylene Pipe Greater than 8' Deep	1-20	LF	\$467.00	\$294.00	\$315.00
89	Remove Existing Pipe and Replace w/30" High Performance Polypropylene Pipe Greater than 8' Deep	21-100	LF	\$393.00	\$291.00	\$290.00
90	Remove Existing Pipe and Replace w/30" High Performance Polypropylene Pipe Greater than 8' Deep	>100	LF	\$314.00	\$284.00	\$240.00
91	Remove Existing Pipe and Replace w/36" High Performance Polypropylene Pipe Less than 8' Deep	1-20	LF	\$519.00	\$288.00	\$332.00

EVALUATION TABULATION
IFB No. 23-040 (SWAN03)
2023-2026 Emergency Storm Sewer Point Repair

Line Item	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
92	Remove Existing Pipe and Replace w/36" High Performance Polypropylene Pipe Less than 8' Deep	21-100	LF	\$436.00	\$285.00	\$294.00
93	Remove Existing Pipe and Replace w/36" High Performance Polypropylene Pipe Less than 8' Deep	>100	LF	\$378.00	\$278.00	\$240.00
94	Remove Existing Pipe and Replace w/36" High Performance Polypropylene Pipe Greater than 8' Deep	1-20	LF	\$538.00	\$312.00	\$347.00
95	Remove Existing Pipe and Replace w/36" High Performance Polypropylene Pipe Greater than 8' Deep	21-100	LF	\$449.00	\$309.00	\$317.00
96	Remove Existing Pipe and Replace w/36" High Performance Polypropylene Pipe Greater than 8' Deep	>100	LF	\$435.00	\$296.00	\$255.00
97	Remove Existing Pipe and Replace w/42" High Performance Polypropylene Pipe Less than 8' Deep	1-20	LF	\$621.00	\$315.00	\$445.00
98	Remove Existing Pipe and Replace w/42" High Performance Polypropylene Pipe Less than 8' Deep	21-100	LF	\$518.00	\$312.00	\$377.00
99	Remove Existing Pipe and Replace w/42" High Performance Polypropylene Pipe Less than 8' Deep	>100	LF	\$449.00	\$305.00	\$377.00
100	Remove Existing Pipe and Replace w/42" High Performance Polypropylene Pipe Greater than 8' Deep	1-20	LF	\$642.00	\$339.00	\$455.00

EVALUATION TABULATION
IFB No. 23-040 (SWAN03)
2023-2026 Emergency Storm Sewer Point Repair

Line Item	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
101	Remove Existing Pipe and Replace w/42" High Performance Polypropylene Pipe Greater than 8' Deep	21-100	LF	\$534.00	\$326.00	\$387.00
102	Remove Existing Pipe and Replace w/42" High Performance Polypropylene Pipe Greater than 8' Deep	>100	LF	\$436.00	\$324.00	\$380.00
103	Remove Existing Pipe and Replace w/48" High Performance Polypropylene Pipe Less than 8' Deep	1-20	LF	\$738.00	\$340.00	\$465.00
104	Remove Existing Pipe and Replace w/48" High Performance Polypropylene Pipe Less than 8' Deep	21-100	LF	\$611.00	\$337.00	\$400.00
105	Remove Existing Pipe and Replace w/48" High Performance Polypropylene Pipe Less than 8' Deep	>100	LF	\$533.00	\$330.00	\$397.00
106	Remove Existing Pipe and Replace w/48" High Performance Polypropylene Pipe Greater than 8' Deep	1-20	LF	\$759.00	\$367.00	\$485.00
107	Remove Existing Pipe and Replace w/48" High Performance Polypropylene Pipe Greater than 8' Deep	21-100	LF	\$627.00	\$364.00	\$420.00
108	Remove Existing Pipe and Replace w/48" High Performance Polypropylene Pipe Greater than 8' Deep	>100	LF	\$520.00	\$357.00	\$417.00
109	Remove Existing Pipe and Replace w/54" High Performance Polypropylene Pipe Less than 8' Deep	1-20	LF	\$895.00	\$363.00	\$685.00

EVALUATION TABULATION
IFB No. 23-040 (SWAN03)
2023-2026 Emergency Storm Sewer Point Repair

Line Item	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
110	Remove Existing Pipe and Replace w/54" High Performance Polypropylene Pipe Less than 8' Deep	21-100	LF	\$694.00	\$360.00	\$650.00
111	Remove Existing Pipe and Replace w/54" High Performance Polypropylene Pipe Less than 8' Deep	>100	LF	\$596.00	\$353.00	\$600.00
112	Remove Existing Pipe and Replace w/54" High Performance Polypropylene Pipe Greater than 8' Deep	1-20	LF	\$943.00	\$387.00	\$685.00
113	Remove Existing Pipe and Replace w/54" High Performance Polypropylene Pipe Greater than 8' Deep	21-100	LF	\$731.00	\$384.00	\$675.00
114	Remove Existing Pipe and Replace w/54" High Performance Polypropylene Pipe Greater than 8' Deep	>100	LF	\$620.00	\$377.00	\$625.00
115	Remove Existing Pipe and Replace w/60" Polypropylene Corrugated Double Wall Pipe Less than 8' Deep	1-20	LF	\$951.00	\$387.00	\$785.00
116	Remove Existing Pipe and Replace w/60" Polypropylene Corrugated Double Wall Pipe Less than 8' Deep	21-100	LF	\$783.00	\$384.00	\$655.00
117	Remove Existing Pipe and Replace w/60" Polypropylene Corrugated Double Wall Pipe Less than 8' Deep	>100	LF	\$692.00	\$377.00	\$625.00
118	Remove Existing Pipe and Replace w/60" Polypropylene Corrugated Double Wall Pipe Greater than 8' Deep	1-20	LF	\$975.00	\$411.00	\$785.00

EVALUATION TABULATION
IFB No. 23-040 (SWAN03)
2023-2026 Emergency Storm Sewer Point Repair

Line Item	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
119	Remove Existing Pipe and Replace w/60" Polypropylene Corrugated Double Wall Pipe Greater than 8' Deep	21-100	LF	\$801.00	\$408.00	\$675.00
120	Remove Existing Pipe and Replace w/60" Polypropylene Corrugated Double Wall Pipe Greater than 8' Deep	>100	LF	\$676.00	\$401.00	\$650.00
121	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 12"Pipe	1-20	LF	\$228.00	\$95.00	\$145.00
122	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 12"Pipe	21-100	LF	\$80.00	\$75.00	\$75.00
123	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 12"Pipe	>100	LF	\$57.00	\$74.00	\$65.00
124	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 15" Pipe	1-20	LF	\$228.00	\$98.00	\$145.00
125	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 15" Pipe	21-100	LF	\$80.00	\$78.00	\$75.00
126	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 15" Pipe	>100	LF	\$57.00	\$77.00	\$65.00
127	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 18" Pipe	1-20	LF	\$228.00	\$98.00	\$145.00
128	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 18" Pipe	21-100	LF	\$80.00	\$78.00	\$75.00
129	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 18" Pipe	>100	LF	\$57.00	\$77.00	\$65.00
130	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 24" Pipe	1-20	LF	\$230.00	\$108.00	\$150.00

EVALUATION TABULATION
IFB No. 23-040 (SWAN03)
2023-2026 Emergency Storm Sewer Point Repair

Line Item	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
131	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 24" Pipe	21-100	LF	\$84.00	\$92.00	\$80.00
132	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 24" Pipe	>100	LF	\$62.00	\$84.00	\$70.00
133	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 30" Pipe	1-20	LF	\$232.00	\$108.00	\$170.00
134	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 30" Pipe	21-100	LF	\$95.00	\$92.00	\$90.00
135	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 30" Pipe	>100	LF	\$66.00	\$84.00	\$88.00
136	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 36" Pipe	1-20	LF	\$233.00	\$108.00	\$170.00
137	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 36" Pipe	21-100	LF	\$99.00	\$92.00	\$91.00
138	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 36" Pipe	>100	LF	\$70.00	\$84.00	\$88.00
139	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 42" Pipe	1-20	LF	\$235.00	\$108.00	\$175.00
140	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 42" Pipe	21-100	LF	\$104.00	\$92.00	\$95.00
141	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 42" Pipe	>100	LF	\$75.00	\$84.00	\$90.00
142	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 48" Pipe	1-20	LF	\$237.00	\$110.00	\$175.00
143	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 48" Pipe	21-100	LF	\$122.00	\$94.00	\$95.00

EVALUATION TABULATION
IFB No. 23-040 (SWAN03)
2023-2026 Emergency Storm Sewer Point Repair

Line Item	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
144	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 48" Pipe	>100	LF	\$79.00	\$88.00	\$90.00
145	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 54" Pipe	1-20	LF	\$239.00	\$112.00	\$180.00
146	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 54" Pipe	21-100	LF	\$126.00	\$96.00	\$100.00
147	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 54" Pipe	>100	LF	\$84.00	\$90.00	\$95.00
148	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 60" Pipe	1-20	LF	\$243.00	\$118.00	\$185.00
149	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 60" Pipe	21-100	LF	\$135.00	\$102.00	\$105.00
150	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC 60" Pipe	>100	LF	\$93.00	\$98.00	\$100.00
151	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 12" Pipe	1-20	LF	\$230.00	\$96.00	\$148.00
152	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 12" Pipe	21-100	LF	\$91.00	\$78.00	\$78.00
153	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 12" Pipe	>100	LF	\$70.00	\$76.00	\$68.00
154	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 15" Pipe	1-20	LF	\$230.00	\$96.00	\$150.00
155	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 15" Pipe	21-100	LF	\$91.00	\$78.00	\$80.00
156	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 15" Pipe	>100	LF	\$70.00	\$76.00	\$70.00

EVALUATION TABULATION
IFB No. 23-040 (SWAN03)
2023-2026 Emergency Storm Sewer Point Repair

Line Item	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
157	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 18" Pipe	1-20	LF	\$230.00	\$96.00	\$150.00
158	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 18" Pipe	21-100	LF	\$91.00	\$78.00	\$80.00
159	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 18" Pipe	>100	LF	\$70.00	\$76.00	\$70.00
160	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 24" Pipe	1-20	LF	\$232.00	\$110.00	\$155.00
161	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 24" Pipe	21-100	LF	\$97.00	\$94.00	\$85.00
162	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 24" Pipe	>100	LF	\$75.00	\$86.00	\$75.00
163	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 30" Pipe	1-20	LF	\$234.00	\$110.00	\$175.00
164	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 30" Pipe	21-100	LF	\$108.00	\$94.00	\$95.00
165	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 30" Pipe	>100	LF	\$81.00	\$86.00	\$90.00
166	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 36" Pipe	1-20	LF	\$236.00	\$110.00	\$175.00
167	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 36" Pipe	21-100	LF	\$114.00	\$94.00	\$96.00
168	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 36" Pipe	>100	LF	\$86.00	\$86.00	\$93.00
169	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 42" Pipe	1-20	LF	\$238.00	\$110.00	\$150.00

EVALUATION TABULATION
IFB No. 23-040 (SWAN03)
2023-2026 Emergency Storm Sewer Point Repair

Line Item	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
170	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 42" Pipe	21-100	LF	\$120.00	\$94.00	\$100.00
171	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 42" Pipe	>100	LF	\$92.00	\$86.00	\$95.00
172	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 48" Pipe	1-20	LF	\$241.00	\$112.00	\$150.00
173	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 48" Pipe	21-100	LF	\$152.00	\$96.00	\$100.00
174	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 48" Pipe	>100	LF	\$111.00	\$88.00	\$95.00
175	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 54" Pipe	1-20	LF	\$243.00	\$114.00	\$185.00
176	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 54" Pipe	21-100	LF	\$144.00	\$98.00	\$105.00
177	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 54" Pipe	>100	LF	\$103.00	\$92.00	\$100.00
178	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 60" Pipe	1-20	LF	\$247.00	\$122.00	\$190.00
179	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 60" Pipe	21-100	LF	\$155.00	\$106.00	\$110.00
180	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 60" Pipe	>100	LF	\$114.00	\$104.00	\$105.00
181	Remove and Replace 4" Non-Reinforced Concrete Slab	1-20	SF	\$52.00	\$22.60	\$35.00
182	Remove and Replace 4" Non-Reinforced Concrete Slab	21-100	SF	\$35.00	\$18.00	\$29.00

EVALUATION TABULATION
IFB No. 23-040 (SWAN03)
2023-2026 Emergency Storm Sewer Point Repair

Line Item	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
183	Remove and Replace 4" Non-Reinforced Concrete Slab	>100	SF	\$31.00	\$18.00	\$23.00
184	Remove and Replace 7" Reinforced Concrete Slab	1-20	SF	\$84.00	\$28.30	\$25.00
185	Remove and Replace 7" Reinforced Concrete Slab	21-100	SF	\$72.00	\$23.60	\$22.00
186	Remove and Replace 7" Reinforced Concrete Slab	>100	SF	\$36.00	\$23.60	\$20.00
187	Remove and Replace 6" Reinforced Concrete Slab	1-20	SF	\$73.00	\$28.00	\$25.00
188	Remove and Replace 6" Reinforced Concrete Slab	21-100	SF	\$61.00	\$23.00	\$22.00
189	Remove and Replace 6" Reinforced Concrete Slab	>100	SF	\$36.00	\$23.00	\$20.00
190	Remove and Replace Standard Curb and Gutter	1-20	LF	\$69.00	\$60.00	\$50.00
191	Remove and Replace Standard Curb and Gutter	21-100	LF	\$59.00	\$58.00	\$50.00
192	Remove and Replace Standard Curb and Gutter	>100	LF	\$46.00	\$58.00	\$50.00
193	Install Extra Lean Concrete (Flowable Fill)	1-20	CY	\$332.00	\$207.00	\$185.00
194	Install Extra Lean Concrete (Flowable Fill)	21-100	CY	\$258.00	\$207.00	\$175.00
195	Install Extra Lean Concrete (Flowable Fill)	>100	CY	\$252.00	\$207.00	\$165.00
196	Dissimilar Pipe Connection for Pipe 12" to 18"	1	EA	\$1,428.00	\$1,731.00	\$750.00

EVALUATION TABULATION
IFB No. 23-040 (SWAN03)
2023-2026 Emergency Storm Sewer Point Repair

Line Item	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
197	Dissimilar Pipe Connection for Pipe 24" to 36"	1	EA	\$2,061.00	\$2,530.00	\$850.00
198	Dissimilar Pipe Connection for Pipe 42" to 48"	1	EA	\$2,856.00	\$4,260.00	\$1,200.00
199	Dissimilar Pipe Connection for Pipe 54" to 60"	1	EA	\$3,495.00	\$6,830.00	\$1,750.00
200	Cast in Place Manhole or Partial Manhole Repair	1	EA	\$7,638.00	\$5,800.00	\$5,500.00
201	Remove and Replace 4 ft Dia. Standard Manhole	1	EA	\$4,813.00	\$4,800.00	\$6,000.00
202	Remove and Replace 5 ft Dia. Standard Manhole	1	EA	\$5,821.00	\$5,700.00	\$6,500.00
203	Remove and Replace 6 ft Dia. Standard Manhole	1	EA	\$7,556.00	\$6,340.00	\$7,500.00
204	Remove and Replace >6 ft Dia. Manhole Per Appropriate Size from CDOT Standard Plan No. M-604-20	1	EA	\$17,274.00	\$12,380.00	\$9,500.00
205	Remove and Replace 5' CDOT Type R Curb Opening Inlet	1	EA	\$9,570.00	\$7,900.00	\$8,500.00
206	Remove and Replace 10' CDOT Type R Curb Opening Inlet	1	EA	\$18,018.00	\$14,200.00	\$11,000.00
207	Remove and Replace 15' CDOT Type R Curb Opening Inlet	1	EA	\$26,862.00	\$19,300.00	\$13,500.00
208	Remove and Replace Single Denver 16 Combination Inlet	1	EA	\$8,844.00	\$24,600.00	\$8,500.00
209	Remove and Replace Double Denver 16 Combination Inlet	1	EA	\$16,698.00	\$28,750.00	\$10,000.00

EVALUATION TABULATION
 IFB No. 23-040 (SWAN03)
 2023-2026 Emergency Storm Sewer Point Repair

	Pricing Table			K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
Line Item	Description	Quantity	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
210	Remove and Replace Triple Denver 16 Combination Inlet	1	EA	\$24,882.00	\$39,785.00	\$11,500.00
211	Install ADA Tactile Band	1	EA	\$581.00	\$1,200.00	\$400.00
212	Mobilization	1	LS	\$5,544.00	\$4,100.00	\$4,000.00

VENDOR QUESTIONNAIRE PASS/FAIL

Question Title	K.R. Swerdfeger Construction, Inc.	Parker Excavating, Inc.	Russ Grading & Excavating LLC
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: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Lisa Macchietto, Assistant City Attorney

SUBJECT: A RESOLUTION SETTING THE DATE, TIME AND PLACE FOR THE HEARING ON ANY OBJECTIONS TO AN ABATEMENT ASSESSMENT AS SEPTEMBER 15, 2023 AT 9:00 A.M. IN CITY COUNCIL CHAMBERS AND DIRECTING THE MAYOR TO APPOINT A HEARINGS OFFICER

SUMMARY:

Attached is a Resolution directing the Mayor to appoint a hearings officer to hear objections relating to lien assessment notices that will be mailed out on or about August 25, 2023, and setting the date, time and place for the hearing as September 15, 2023 at 9:00 a.m. in City Council Chambers.

PREVIOUS COUNCIL ACTION:

On September 14, 2015, Council approved Ordinance No. 8917, which provides for the assessment of abatement costs. On October 13, 2015, Council approved Ordinance No. 8926, which certified Assessment Roll No. 2015-1. On December 14, 2015, Council approved Ordinance No. 8953, which certified Assessment Roll No. 2016-1. On September 26, 2017, Council approved Ordinance No.'s 9043 and 9044, which certified Assessment Roll No.'s 2016-2 and 2016-3, respectively. On October 23, 2017, Council approved Ordinance No. 9189 which certified Assessment Roll No. 2017-1. On October 23, 2018, Council approved Ordinance No. 9355 which certified Assessment Roll No. 2018-1. On July 22, 2019, Council approved Ordinance No. 9502 which amended the notice of hearing and protest deadlines by expanding each by five days to create more time between the protest filing deadline and hearing date. On October 15, 2019 Council approved Ordinance No. 9570 which certified Assessment Roll No. 2019-1. On October 13, 2020 Council approved Ordinance No. 9789 which certified Assessment Roll No. 2020-1. On October 12, 2021, Council approved Ordinance No. 10023 which certified Assessment Roll No. 2021-1. On October 11, 2022, Council approved Ordinance No. 10302 which certified Assessment Roll No. 2022-1.

BACKGROUND:

Chapter 8 of Title VII of the Pueblo Municipal Code allows for anyone interested in a property for which an abatement lien assessment will be certified to the County Treasurer to object to or protest the assessment. Pursuant to Section 7-8-4, City Council may direct the Mayor to appoint a hearings officer to hear the objections and protests. The hearings officer will provide recommendations for the resolution of any objections or protests to City Council for its review and consideration. Thereafter, City Council may elect to certify any or all of the assessments to the County Treasurer for collection.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

City Council may choose not to pass this Resolution.

RECOMMENDATION:

The Law Department recommends approval of this Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15336

A RESOLUTION SETTING THE DATE, TIME AND PLACE FOR THE HEARING ON ANY OBJECTIONS TO AN ABATEMENT ASSESSMENT AS SEPTEMBER 15, 2023 AT 9:00 A.M. IN CITY COUNCIL CHAMBERS AND DIRECTING THE MAYOR TO APPOINT A HEARINGS OFFICER

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Pursuant to Chapter 8 of Title VII of the Pueblo Municipal Code, City Council hereby directs the Mayor to appoint a hearings officer to hear any protests or objections to the lien assessment notices that will be posted and/or mailed on or about August 25, 2023.

SECTION 2.

A hearing shall be held at 9:00 a.m. on September 15, 2023 in the City Council Chambers at which time any protests or objections to the report may be heard. Any person interested in or affected by proposed charge may file written protests or objections with the City Clerk no later than seven (7) days prior to the time set for the hearing on the report pursuant to P.M.C. § 7-8-3. Each objection must be in writing, contain a description of the property in which the signer thereof is interested, a description of the signer's interest in the property, and the grounds for such protest or objection. No protests shall be accepted later than close of business on the seventh (7th) day prior to the hearing.

SECTION 3.

The City Clerk is hereby directed to cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation within the City, and served by certified mail, postage prepaid addressed to the owner of the property as the owner's name and address appears on the last assessment roll of the county, if such so appears, or as known to the City Clerk. Such notice or mailing shall be given at least fifteen (15) days prior to the date set for the hearing and shall specify the day, hour and place when the hearing shall be held and when City Council shall pass upon the City's Report of Abatement Lien Assessments and the recommendations of the Hearings Officer.

SECTION 4.

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

SECTION 5.

This Resolution shall become effective immediately upon final passage and approval.

INTRODUCED: August 14, 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: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Chris Noeller, Chief of Police

SUBJECT: A RESOLUTION AUTHORIZING THE CITY OF PUEBLO TO APPLY FOR A 2023 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) AND APPROVING A MEMORANDUM OF UNDERSTANDING CONCERNING RECEIPT AND DISBURSEMENT OF FUNDS FROM SAID GRANT, AUTHORIZING THE MAYOR TO EXECUTE SAME AND RATIFYING HIS PRIOR SIGNATURE THERETO

SUMMARY:

Attached is a Memorandum of Understanding between the City of Pueblo and Pueblo County concerning the disbursements of the FY2023 JAG Local Solicitation award. Also attached is the grant application summary (Form SF424).

PREVIOUS COUNCIL ACTION:

The FY2023 JAG Local Solicitation is an annual formula grant that has been in existence for the past nineteen (19) years. The City and County of Pueblo have received \$2,341,804 in JAG Local Solicitation funds since its inception.

BACKGROUND:

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program provides funds to units of local government for the purpose of improving law enforcement technology and upgrading necessary equipment. The program is designed to help local communities address problems specific to their area.

FINANCIAL IMPLICATIONS:

This grant funding represents \$111,507.00 to the City and County of Pueblo with no required match. The City's share of the \$111,507.00 is \$84,745.00.

The City's share will be used to fund six (6) Police Department equipment projects, including desktop, laptop, and other computer-related equipment for the entire

Department, additional investigative tools for the Crimes Against Property Unit, and other law enforcement enhancing equipment projects as determined by the Chief of Police. (See attachment for detailed list of proposed equipment). Mr. Gradisar will need to sign the award document and initial the lower right corner of each page of the Special Conditions.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

City and County law enforcement leaders have met and agreed to the distribution terms of this annual formula grant since its inception in 2005. A signed MOU between the City and County is a requirement for acceptance of the award. Additionally, a public meeting, to receive public comments on the expenditures, is a requirement of the award. That public meeting occurred on July 17th, 2023 where the division of funds was agreed upon.

ALTERNATIVES:

The FY2023 JAG Local Solicitation is an annual formula grant that has been in existence for the past nineteen (19) years. The City and County of Pueblo have received \$2,341,804 in JAG funds since its inception. In order to receive the funds, the City and County of Pueblo must sign the MOU. If either entity does not sign the MOU, no JAG funds will be received by either entity.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 2023 JAG Itemization of Projects 07-10-2023
2. 2023 JAG Memo of Understanding (Draft) 7-10-2023
3. Form SF424 2023 JAG Grant Application

RESOLUTION NO. 15337

A RESOLUTION AUTHORIZING THE CITY OF PUEBLO TO APPLY FOR A 2023 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) AND APPROVING A MEMORANDUM OF UNDERSTANDING CONCERNING RECEIPT AND DISBURSEMENT OF FUNDS FROM SAID GRANT, AUTHORIZING THE MAYOR TO EXECUTE SAME AND RATIFYING HIS PRIOR SIGNATURE THERETO

WHEREAS, the City of Pueblo Police Department is requesting the City of Pueblo submit an application to the United States Department of Justice (DOJ) for the 2023 Edward Byrne Memorial Justice Assistance Grant (JAG); and

WHEREAS, the funds from this grant will be utilized by the Police Department, Sheriff's Department, and the District Attorney's Office to benefit the health, welfare, and safety of the citizens of the City; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The 2023 JAG Local Solicitation Application O-BJA-2023-171790 (Grant Application), a copy of which is attached hereto, is hereby approved and authorized for submittal to the United States Department of Justice.

SECTION 2.

The Memorandum of Understanding dated as of July 17th, 2023, by and between the City of Pueblo, a Colorado Municipal Corporation, and Pueblo County, Colorado concerning the receipt and disbursement of the 2023 JAG funds, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

The Mayor of the City is authorized to execute the Grant Application and Memorandum of Understanding in the name of the City, and his prior signature thereto is hereby ratified and approved. The City Clerk is directed to affix the seal to the Memorandum of Understanding and attest same. The Mayor is also authorized to execute any and all other certifications, assurances and other documents associated therewith.

SECTION 4.

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

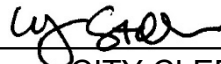
SECTION 5.

The Resolution shall become effective on the date of final action by the Mayor and City Council.

INTRODUCED: August 14, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

**FY2023 Justice Assistance Grant (JAG) Local Solicitation
Projects & Programs**

Grant # 2023 JAG Project # PSXXXX

Disparate Certification

A disparate allocation occurs when a city or municipality is scheduled to receive one and one-half times (150 percent) more than a county with concurrent jurisdiction, while that county bears more than 50 percent of the costs associated with prosecution or incarceration of the municipality's Part 1 violent crime. Multiple disparate allocations occur when multiple cities or municipalities are collectively eligible to receive four times (400 percent) more than the county.

JAG disparate jurisdictions are certified by the Director of the Bureau of Justice Assistance (BJA), based in part on input from the state's Attorney General. For a listing of disparate jurisdictions, go to www.ojp.usdoj.gov/BJA/recoveryJAG/recoveryallocations.html.

Proj #	Name of Project	Agency	Amount	Description
1	Desktop/Laptop and Related Computer Replacement Project	PPD Services	\$50,279	This project proposes to purchase technical computer equipment for law enforcement and public safety use including desk top computers (towers, monitors, keyboards, etc), laptop computers, and other related computer componets such as mobile printers, and applicable and related software. Actual project cost is \$58,331.75. PPD will pay the extra \$8,052.75 with an IT Project fund, PST2306.
2	6X10 enclosed trailer for hauling crime scene investigation supplies	PPD CSI	\$6,000	Purchase of 8'-10' enclosed box/cargo trailer to store and hold a lot of our shared or bulkier equipment we haul in and out of the office and garage to major crime scenes to make this process more efficient. It would also provide for transport space for larger evidence when needed.
3	2-electric assist bicycles - Bike Patrol	PPD Bike Patrol	\$9,484	Bicycles allow officers to maneuver in smaller spaces as well as work within larger crowds to provide a safer environment and improve the quality of life for all. Electric assist bicycles enhance officer's ability to respond to various parts of town without exhaustion, better engage and communicate with community members at events, cover other officers in need, respond to other calls for service with a much quicker response time.
4	2-rifle rated bullet proof shields for BATTLE	PPD CAProp	\$17,839	Right now, the Pueblo Police BATTLE members operating the pin vehicles do not have any protection against pistol or rifle rounds that the occupants of the stolen vehicle may fire towards the officers in the pin vehicle, other than the engine block. Bullet proof shields would allow the Officers to be protected and allow them to keep eyes on the suspect and suspect vehicle.
5	130 archive storage boxes	PPD VAPP	\$858	The Volunteers Assisting Pueblo Police (VAPP) are requesting 130 archival storage boxes (90 large and 40 small) to move the Pueblo Police Department's historical files into proper protective storage.
6	Electronics training kits for BOMB training	PPD Bomb	\$286	The Pueblo Metro Bomb Squad is in need of training tools for electronic circuits. Current trends in Improvised Explosive Devices have moved to electronic circuits. One of the missions a public safety bomb squad is tasked with is defeating IED's and rendering them safe in situations where they pose an extreme risk to life or critical infrastructure.

\$84,746

1	2-electric assist bicycles - Bike Patrol	PCSO	\$9,604	When patrolling a community event, its important that deputies are highly visible and can cover a large area in a timely manner. E-bikes are a significant advantage compared to typical marked cruisers. Electric bikes are proving to be a popular choice for deputies on the move. Electric bikes are more quickly deployable than patrol cruisers, allowing deputies to respond to call more quickly in a targeted area, and are more maneuverable.
2	Ballistic Shields	PCSO	\$11,805	The Pueblo County Sheriff's Office needs additional safety equipment for the Law Enforcement division. In 2021, two deputies were shot while trying to make contact at a home. Having rifle rated shields easily accessible for the responding officers as well as detectives, civil fugitive and narcotics detectives for use when conducting any high-risk job function is an additional safety measure. Actual project cost is \$16K. PCSO will fund the additional \$4,194.89 out of their general funds.

\$21,409

1	Technical projects/training and equipment.	PCDA	\$5,352	Purchase technology, supplies, equipment and system upgrades, including the potential purchase of computers, monitors, color printers, and fax
---	--	------	---------	--

\$5,352

Total Grant Amount = \$111,507

**MEMORANDUM OF UNDERSTANDING
CONCERNING RECEIPT AND DISBURSEMENT OF
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG)
FUNDS FOR FY 2023
(GRANT OPPORTUNITY#_O-BJA-2023-171790)**

THIS MEMORANDUM OF UNDERSTANDING is made and entered into this 17th day of July, 2023, by and between the City of Pueblo, a Municipal Corporation (hereafter referred to as the “City”) and Pueblo County, Colorado (hereafter referred to as the “County”).

WITNESSETH:

WHEREAS, the parties recognize that for FY 2023 Edward Byrne Memorial Justice Assistance Grant (JAG) funding, administered by the U.S. Office of Justice Programs, Pueblo County has been certified as a disparate jurisdiction by the Colorado State Attorney General’s Office; and

WHEREAS, Federal Edward Byrne Memorial Justice Assistance Grant funding requires that a certified disparate county and the city or cities within the county are to divide available funds to their mutual satisfaction, and that if the parties are unable to reach a mutual agreement, no jurisdiction is eligible to receive funds; and

WHEREAS, the parties reached an agreement over the receipt of \$111,507.00 in JAG funds and the disbursement of those funds and wish to set such agreement as follows.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and in accordance with Federal law, the parties agree as follows:

1. The \$111,507.00 JAG Grant Funds will be allocated as follows: The City will receive \$84,745.00 and will use these resources to fund one or more projects/programs that are outlined in the Program Narrative attachment of the application. The County will receive \$26,762.00 of which the Pueblo County Sheriff’s Department will receive \$21,409.00 to fund one or more different projects/programs that are outlined in the Program Narrative attachment of the application. The Pueblo County District Attorney will receive \$5,352.00 of the County’s allocation to fund one or more different projects/programs that are outlined in the Program Narrative attachment of the application. The City will serve as the applicant/fiscal agent.

2. The City, County, Pueblo County Sheriff’s Department and Pueblo County District Attorney shall each meet and comply with the assurances, certifications, general and special conditions set forth in the FY 2023 JAG Grant Funds Award which are incorporated herein as if set out herein in full and shall expend their respective funds solely for their approved projects.

Memorandum of Understanding
Concerning Receipt and Disbursement of
Edward Byrne Memorial Justice Assistance Grant Funds for FY 2023

Page – 2

IN WITNESS WHEREOF, the parties have entered into this Memorandum of Understanding the day and year first written above.

ATTEST:

PUEBLO COUNTY, COLORADO

By _____
Clerk to the Board

By _____
Chairman, Board of County Commissioners

ATTEST:

CITY OF PUEBLO, A Municipal Corporation

By _____
City Clerk

By _____
Mayor

ATTEST:

PUEBLO COUNTY SHERIFF

By _____

By _____
David Lucero, Sheriff

ATTEST:

CITY OF PUEBLO POLICE DEPARTMENT

By _____

By _____
Chris Noeller, Chief of Police

ATTEST:

10TH JUDICIAL DISTRICT ATTORNEY

By _____

By _____
Jeff Chostner, District Attorney

This Workspace form is one of the forms you need to complete prior to submitting your Application Package. This form can be completed in its entirety offline using Adobe Reader. You can save your form by clicking the "Save" button and see any errors by clicking the "Check For Errors" button. In-progress and completed forms can be uploaded at any time to Grants.gov using the Workspace feature.

When you open a form, required fields are highlighted in yellow with a red border. Optional fields and completed fields are displayed in white. If you enter invalid or incomplete information in a field, you will receive an error message. Additional instructions and FAQs about the Application Package can be found in the Grants.gov Applicants tab.

OPPORTUNITY & PACKAGE DETAILS:

Opportunity Number:	O-BJA-2023-171790
Opportunity Title:	BJA FY 23 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation
Opportunity Package ID:	PKG00282389
CFDA Number:	16.738
CFDA Description:	Edward Byrne Memorial Justice Assistance Grant Program
Competition ID:	C-BJA-2023-00105-PROD
Competition Title:	Category 2-Applicants with eligible allocation amounts of \$25,000 or more
Opening Date:	06/30/2023
Closing Date:	08/24/2023
Agency:	Bureau of Justice Assistance
Contact Information:	For assistance with the requirements of this solicitation, contact the OJP Response Center at 800-851-3420, 301-240-6310 (TTY for hearing-impaired callers only), or grants@ncjrs.gov. The OJP Response Center operates from 10:00 a.m. to 6:00 p.m. eastern time (ET) Monday-Friday, and 10:00 a.m. to 8:00 p.m. ET on the solicitation close date.

APPLICANT & WORKSPACE DETAILS:

Workspace ID:	WS01148714
Application Filing Name:	PPD JAG Annual Allocation
UEI:	NJK3BNUDRHJ7
Organization:	CITY OF PUEBLO
Form Name:	Application for Federal Assistance (SF-424)
Form Version:	4.0
Requirement:	Mandatory
Download Date/Time:	Jul 03, 2023 11:28:11 AM EDT
Form State:	No Errors

FORM ACTIONS:

Application for Federal Assistance SF-424

*** 1. Type of Submission:**

- ☐ Preapplication
☒ Application
☐ Changed/Corrected Application

*** 2. Type of Application:**

- ☒ New
☐ Continuation
☐ Revision

*** If Revision, select appropriate letter(s):**

*** Other (Specify):**

*** 3. Date Received:**

Completed by Grants.gov upon submission.

4. Applicant Identifier:

5a. Federal Entity Identifier:

5b. Federal Award Identifier:

State Use Only:

6. Date Received by State:

7. State Application Identifier:

8. APPLICANT INFORMATION:

*** a. Legal Name:**

City of Pueblo

*** b. Employer/Taxpayer Identification Number (EIN/TIN):**

84-6000615

*** c. UEI:**

NJK3BNUDRHJ7

d. Address:

*** Street1:**

1 City Hall Place

Street2:

*** City:**

Pueblo

County/Parish:

*** State:**

CO: Colorado

Province:

*** Country:**

USA: UNITED STATES

*** Zip / Postal Code:**

810034201

e. Organizational Unit:

Department Name:

Division Name:

f. Name and contact information of person to be contacted on matters involving this application:

Prefix:

*** First Name:**

Luann

Middle Name:

*** Last Name:**

Martinez

Suffix:

Title:

Grant and Development Administrator

Organizational Affiliation:

*** Telephone Number:**

7195687726

Fax Number:

*** Email:**

lmartinez@pueblo.us

Application for Federal Assistance SF-424

* 9. Type of Applicant 1: Select Applicant Type:

C: City or Township Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

* 10. Name of Federal Agency:

Bureau of Justice Assistance

11. Catalog of Federal Domestic Assistance Number:

16.738

CFDA Title:

Edward Byrne Memorial Justice Assistance Grant Program

* 12. Funding Opportunity Number:

O-BJA-2023-171790

* Title:

BJA FY 23 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation

13. Competition Identification Number:

C-BJA-2023-00105-PROD

Title:

Category 2-Applicants with eligible allocation amounts of \$25,000 or more

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment

Delete Attachment

View Attachment

* 15. Descriptive Title of Applicant's Project:

FY23 Pueblo Annual Allocation

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

Application for Federal Assistance SF-424**16. Congressional Districts Of:*** a. Applicant * b. Program/Project

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment

Delete Attachment

View Attachment

17. Proposed Project:* a. Start Date: * b. End Date: **18. Estimated Funding (\$):**

* a. Federal	111,507.00
* b. Applicant	0.00
* c. State	0.00
* d. Local	0.00
* e. Other	0.00
* f. Program Income	0.00
* g. TOTAL	111,507.00

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

- ☐ a. This application was made available to the State under the Executive Order 12372 Process for review on .
- ☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- ☒ c. Program is not covered by E.O. 12372.

*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment

Delete Attachment

View Attachment

21. *By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 18, Section 1001)**

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: * First Name:

Middle Name:

* Last Name:

Suffix:

* Title: * Telephone Number: Fax Number: * Email: * Signature of Authorized Representative: * Date Signed:



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 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: A RESOLUTION APPROVING COMPENSATION WITH RESPECT TO
LEGAL SERVICES AGREEMENT WITH HOFFMANN, PARKER,
WILSON & CARBERRY, P.C.

SUMMARY:

This Resolution approves compensation set forth in the Legal Services Agreement with Hoffmann, Parker, Wilson & Carberry, P.C., a copy of which is attached hereto.

PREVIOUS COUNCIL ACTION:

Ordinance 10503 (July 10, 2023) budgeted and appropriated an amount of \$120,000 from the unappropriated fund balance of the General Fund to the Professional Services Account of the Law Department for special counsel on an as needed basis.

BACKGROUND:

Pursuant to Section 6-7 of the City Charter, special council is retained solely by the City Attorney but compensation is approved by City Council. Given current staffing and the transitional phase of the law department, special counsel on an as needed basis including as relates to the 2023 election and runoff and ARPA funding issues is required. The law firm of Hoffmann, Parker, Wilson & Carberry, P.C., is one of the largest and most reputable law firms representing municipalities in Colorado.

FINANCIAL IMPLICATIONS:

This firm's hourly rate for this engagement is \$300 per hour, and to the extent paralegal assistance is necessary, a rate of \$115 per hour for paralegal work.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

Not approve Resolution.

RECOMMENDATION:

Approve the Resolution.

ATTACHMENTS:

1. Hoffman Parker Wilson and Carberry Engagement Letter

RESOLUTION NO. 15338

A RESOLUTION APPROVING COMPENSATION WITH
RESPECT TO A LEGAL SERVICES AGREEMENT WITH
HOFFMANN, PARKER, WILSON & CARBERRY, P.C.

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Compensation set forth in the Legal Services Agreement with Hoffmann, Parker, Wilson & Carberry, P.C., a copy of which is attached hereto, is hereby approved.

SECTION 2.

Compensation shall be paid from the professional services account of the law department or, if necessary, by transfer of any unencumbered appropriation balance or portion thereof from one classification of expenditure to another within the law department.

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.

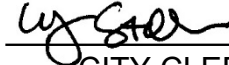
SECTION 4.

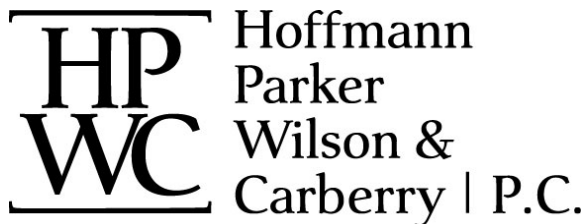
This Resolution shall become effective immediately upon final passage.

INTRODUCED: August 14, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



Corey Y. Hoffmann
Kendra L. Carberry
Jefferson H. Parker
M. Patrick Wilson

511 16th Street, Suite 610
Denver, CO 80202-4260
(303) 825-6444

Daniel P. Harvey
Ruthanne H. Goff
Katharine J. Vera
Elizabeth G. LeBuhn
Austin P. Flanagan
Kunal A. Parikh

Of Counsel
J. Matthew Mire
Hilary M. Graham
Kathryn M. Sellars

July 31, 2023

Robert Jagger, Interim City Attorney
1 City Hall Place
Pueblo, Colorado 81003

Via Email: rjagger@pueblo.us

Re: Engagement Letter

Dear Mr. Jagger:

The purpose of this letter is to confirm our engagement as special counsel to the City of Pueblo (the "City") to assist the City with advising on the following legal issues: (1) issues associated with the 2023 General Election and subsequent potential run-off election; (2) questions regarding the expenditure of ARPA funds; and (3) other miscellaneous municipal legal issues that may arise as necessary. Kendra Carberry and I will coordinate and oversee the services we provide to the City of Pueblo, with Ms. Carberry coordinating the election-related issues, and I will coordinate the remainder of the services provided to the City.

Please also note that as we discussed, we do currently provide special counsel services to Pueblo County (the "County"). We have confirmed that such representation does not constitute a conflict of interest, but we will exercise care to assure that we do not provide counsel to the City that in any way could be construed as creating even a perception of a conflict. In this regard, we understand that the primary focus of our representation on election-related matters will be on the potential run-off election, as opposed to the general election that is to be coordinated with Pueblo County.

The ethics of our profession also mandate that upon commencement of representation of a client on a legal matter, clients understand and agree with the financial commitments involved. We calculate fees based on hourly rates for the time spent by the respective attorneys involved. This firm's hourly rate for this engagement is \$300 per hour, and to the extent paralegal assistance is necessary, a rate of \$115 per hour for paralegal work.

7/31/2023

July 31, 2023
Page 2

In addition, we bill for out-of-pocket expenses we incur on our client's behalf (to the extent they are incurred), including without limitation the following: computerized legal research (Westlaw) charges, photocopy and reproduction charges, and postage. We will bill these disbursements monthly.

If anything I have stated in this letter presents a problem or is unclear, please advise me promptly so that we may discuss it and reach a full understanding. Otherwise, please execute the engagement agreement below, and return it to me at your earliest convenience.

We look forward to a mutually satisfactory relationship.

Very truly yours,



Corey Y. Hoffmann
cyhoffmann@hpwclaw.com

ACCEPTED AND AGREED TO THIS DAY _____ OF _____, 2023.

Robert Jagger, Interim City Attorney



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 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 DON BRUESTLE, SHARON CAMPBELL, MARY AGNES LEONARD, AND ROBERT LONG TO SERVE A FOUR-YEAR TERM EXPIRING AUGUST 31, 2027 ON THE PUEBLO ADA ADVISORY COMMITTEE

SUMMARY:

This Resolution confirms the appointment by the Mayor of members to the to serve a four-year term expiring August 30, 2027.

PREVIOUS COUNCIL ACTION:

The Mayor has made appointments to the Pueblo 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.

Due to term expirations of Don Bruestle and Sharon Campbell and the existing vacancies on the Committee, there are spots available to serve four-year terms.

FINANCIAL IMPLICATIONS:

This is a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

Approval of the Resolution.

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

Remove from agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15339

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF DON BRUESTLE, SHARON CAMPBELL, MARY AGNES LEONARD, AND ROBERT LONG TO SERVE A FOUR-YEAR TERM EXPIRING AUGUST 31, 2027 ON THE PUEBLO ADA ADVISORY COMMITTEE

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Don Bruestle, Sharon Campbell, Mary Agnes Leonard, and Robert Long to the Pueblo ADA Advisory Committee; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The appointment by the Mayor of Don Bruestle, Sharon Campbell, Mary Agnes Leonard, and Robert Long to the Pueblo ADA Advisory Committee to serve a four-year term expiring August 30, 2027 shall be and is hereby confirmed by the City Council.

SECTION 2.

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

SECTION 3.

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

INTRODUCED: August 14, 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: August 14, 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 JOE LATINO TO THE EL CENTRO DEL QUINTO SOL
RECREATION CENTER BOARD OF DIRECTORS

SUMMARY:

This Resolution confirms the reappointment by the Mayor of a member to serve a three-year term expiring August 31, 2026.

PREVIOUS COUNCIL ACTION:

The Mayor has made appointments to the El Centro del Quinto Sol Recreation Center Board of Directors selecting individuals to serve terms which expire during a particular calendar year and presented them to Council for approval.

BACKGROUND:

Due to the term expirations of Joe Latino and Tim Trujillo, there are two vacancies on this board. Mr. Latino is eligible for reappointment.

FINANCIAL IMPLICATIONS:

This is a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

Remove from agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15340

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE
MAYOR OF JOE LATINO TO THE EL CENTRO DEL QUINTO
SOL RECREATION CENTER BOARD OF DIRECTORS

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Joe Latino to the El Centro del Quinto Sol Recreation Center Board of Directors; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The appointment by the Mayor of Joe Latino to the El Centro del Quinto Sol Recreation Center Board of Directors to serve a three-year term expiring August 31, 2026 shall be and is hereby confirmed by the City Council.

SECTION 2.

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

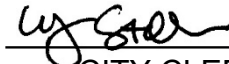
SECTION 3.

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

INTRODUCED: August 14, 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: August 14, 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 GUY CHABOT TO COMPLETE A FOUR-YEAR TERM EXPIRING
JANUARY 1, 2026 ON THE HISTORIC PRESERVATION COMMISSION

SUMMARY:

This Resolution confirms the appointment by the Mayor of Guy Chabot to complete a four-year term expiring January 1, 2026 on the Historic Preservation Commission.

PREVIOUS COUNCIL ACTION:

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

BACKGROUND:

Due to the resignation of Amy Scoby, there is one appointment available to complete a four-year term on the Historic Preservation Commission.

FINANCIAL IMPLICATIONS:

This is a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

Remove from agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15341

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE
MAYOR OF GUY CHABOT TO COMPLETE A FOUR-YEAR
TERM EXPIRING JANUARY 1, 2026 ON THE HISTORIC
PRESERVATION COMMISSION

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Guy Chabot to complete a four-year term expiring January 1, 2026 on the Historic Preservation Commission; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The appointment by the Mayor of Guy Chabot to the Historic Preservation Commission to complete a four-year term expiring January 1, 2026 shall be and is hereby confirmed by the City Council.

SECTION 2.

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

SECTION 3.

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

INTRODUCED: August 14, 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: August 14, 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 AIRPORT IMPROVEMENT PROGRAM (AIP) GRANT AGREEMENT NO. 3-08-0046-048-2023 FROM THE UNITED STATES OF AMERICA ACTING THROUGH THE FEDERAL AVIATION ADMINISTRATION FOR FUNDS IN THE AMOUNT OF \$9,316,522 FOR COSTS RELATED TO THE REHABILITATION OF RUNWAY 8R/26L AND TAXIWAY A2 REMOVAL (PHASE 2 – CONSTRUCTION) AT THE PUEBLO MEMORIAL AIRPORT, BUDGETING AND APPROPRIATING \$9,316,522 TO PROJECT NO. AP2205 - REHAB OF RUNWAY 8R-26L DESIGN AND CONSTRUCTION, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance will approve and accept an Airport Improvement Program (AIP) grant agreement from the United States of America acting through the Federal Aviation Administration (FAA) to provide funding for costs related to the rehabilitation of Runway 8R/26L and Taxiway A2 Removal (Phase 2 – Construction).

PREVIOUS COUNCIL ACTION:

Ordinance No. 10242, adopted by City Council on August 8, 2022, accepted FAA grant funds, established Project No. AP2205 - Rehab of Runway 8R-26L Design and Construction for the initial design phase, and approved a Professional Engineering Services agreement for the initial design.

Ordinance No. 10253, adopted by City Council on August 24, 2022, accepted CDOT grant funds for costs related to the initial design.

Ordinance No. 10353, adopted by City Council on December 27, 2022, approved an amendment to the Professional Engineering Services agreement for additional design work to be completed to replace the Airfield Lighting Control and Monitoring System.

Ordinance No. 10486, adopted by City Council on June 26, 2023, accepted CDOT grant funds for costs related to project construction.

Ordinance No. 10508, adopted by City Council on July 24, 2023, accepted FAA grant funds for costs related to Airfield Lighting Control and Monitoring System replacement.

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 schedule for 2022, approved by both the FAA and CDOT for Entitlement Fund use.

FINANCIAL IMPLICATIONS:

The total project cost for construction is \$9,806,866.00. The FAA AIP Grant is for \$9,316,522.00 (95%). The CDOT approved grant amount is \$245,171.00 (2.5%), accepted, budgeted, and appropriated in a previous ordinance. The City's match is \$245,173.00 (2.5%). Matching funds budgeted and appropriated in a previous ordinance.

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 federal government and the project will not occur.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. PUB-NMG-3-08-0046-048-2023-Grant Agreement
2. PUB-48 Grant Certification

ORDINANCE NO.

AN ORDINANCE APPROVING AND ACCEPTING AIRPORT IMPROVEMENT PROGRAM (AIP) GRANT AGREEMENT NO. 3-08-0046-048-2023 FROM THE UNITED STATES OF AMERICA ACTING THROUGH THE FEDERAL AVIATION ADMINISTRATION FOR FUNDS IN THE AMOUNT OF \$9,316,522 FOR COSTS RELATED TO THE REHABILITATION OF RUNWAY 8R/26L AND TAXIWAY A2 REMOVAL (PHASE 2 – CONSTRUCTION) AT THE PUEBLO MEMORIAL AIRPORT, BUDGETING AND APPROPRIATING \$9,316,522 TO PROJECT NO. AP2205 - REHAB OF RUNWAY 8R-26L DESIGN AND CONSTRUCTION, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, the City of Pueblo has received a Grant Agreement from the Federal Aviation Administration (FAA) for costs related to the rehabilitation of Runway 8R/26L and Taxiway A2 Removal (Phase 2 – Construction); and,

WHEREAS, the funds from this grant need to be budgeted and appropriated into Rehab Runway 8R-26L Design & Construction Project No. AP2205; NOW, THEREFORE,

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

SECTION 1.

The Federal Aviation Administration Grant Agreement No. 3-08-046-048-2022 (“Grant Agreement”), 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 United States of America through the Federal Aviation Administration (“FAA”), making available \$9,316,522.00 in federal funds for costs related to the rehabilitation of Runway 8R/26L and Taxiway A2 Removal (Phase 2 – Construction), after having been approved as to form by the City Attorney, is here by accepted and approved.

SECTION 2.

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 3.

Funds in the amount of \$9,316,522.00 shall be accepted pursuant to the Grant Agreement and budgeted and appropriated to Project No. AP2205 - Rehab Runway 8R-26L Design and Construction. Pursuant to the Grant Agreement, the FAA may make unilateral amendments to the grant terms and its obligation 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 the FAA increase the maximum grant obligation of the FAA without any required matching funds by City, said funds shall be automatically budgeted and appropriated to Project No. AP2205 - Rehab Runway 8R-26L Design and Construction without the need for further action.

SECTION 4.

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

SECTION 5.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

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



U.S. Department
of Transportation
Federal Aviation
Administration

Airports Division
Northwest Mountain Region
Colorado, Utah, Wyoming

Denver Airports District Office:
26805 E 68th Ave, Ste 224
Denver, CO 80249-6339

{{DateTime_es_:signer1:calc(now()):format(date," mmmm d, yyyy")}}

The Honorable Nicholas A. Gradisar
Mayor, City of Pueblo
1 City Hall Place
Pueblo, Colorado 81003

Dear Mayor Gradisar:

The Grant Offer for Airport Improvement Program (AIP) Project No. 3-08-0046-048-2023 at Pueblo Memorial Airport is attached for execution. This letter outlines the steps you must take to properly enter into this agreement and provides other useful information. Please read the conditions, special conditions, and assurances that comprise the grant offer carefully.

You may not make any modification to the text, terms or conditions of the grant offer.

Steps You Must Take to Enter Into Agreement.

To properly enter into this agreement, you must do the following:

1. The governing body must give authority to execute the grant to the individual(s) signing the grant, i.e., the person signing the document must be the sponsor's authorized representative(s) (hereinafter "authorized representative").
2. The authorized representative must execute the grant by adding their electronic signature to the appropriate certificate at the end of the agreement.
3. Once the authorized representative has electronically signed the grant, the sponsor's attorney(s) will automatically receive an email notification.
4. On the **same day or after** the authorized representative has signed the grant, the sponsor's attorney(s) will add their electronic signature to the appropriate certificate at the end of the agreement.
5. If there are co-sponsors, the authorized representative(s) and sponsor's attorney(s) must follow the above procedures to fully execute the grant and finalize the process. Signatures must be obtained and finalized no later than **September 14, 2023**.
6. The fully executed grant will then be automatically sent to all parties as an email attachment.

Payment. Subject to the requirements in 2 CFR § 200.305 (Federal Payment), each payment request for reimbursement under this grant must be made electronically via the Delphi eInvoicing System. Please see the attached Grant Agreement for more information regarding the use of this System.

Project Timing. The terms and conditions of this agreement require you to complete the project without undue delay and no later than the Period of Performance end date (1,460 days from the grant execution date). We will be monitoring your progress to ensure proper stewardship of these Federal funds. We

expect you to submit payment requests for reimbursement of allowable incurred project expenses consistent with project progress. Your grant may be placed in “inactive” status if you do not make draws on a regular basis, which will affect your ability to receive future grant offers. Costs incurred after the Period of Performance ends are generally not allowable and will be rejected unless authorized by the FAA in advance.

Reporting. Until the grant is completed and closed, you are responsible for submitting formal reports as follows:

- For all grants, you must submit by December 31st of each year this grant is open:
 1. A signed/dated SF-270 (Request for Advance or Reimbursement for non-construction projects) or SF-271 or equivalent (Outlay Report and Request for Reimbursement for Construction Programs), and
 2. An SF-425 (Federal Financial Report).
- For non-construction projects, you must submit [FAA Form 5100-140, Performance Report](#) within 30 days of the end of the Federal fiscal year.
- For construction projects, you must submit [FAA Form 5370-1, Construction Progress and Inspection Report](#), within 30 days of the end of each Federal fiscal quarter.

Audit Requirements. As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR Part 200. Subpart F requires non-Federal entities that expend \$750,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to ensure your organization will comply with applicable audit requirements and standards.

Closeout. Once the project(s) is completed and all costs are determined, we ask that you work with your FAA contact indicated below to close the project without delay and submit the necessary final closeout documentation as required by your Region/Airports District Office.

FAA Contact Information. Paulette Lugo, (303) 342-1256, paulette.lugo@faa.gov is the assigned program manager for this grant and is readily available to assist you and your designated representative with the requirements stated herein.

We sincerely value your cooperation in these efforts and look forward to working with you to complete this important project.

Sincerely,

{{Sig_es_:signer1: signature}}

John P. Bauer
Manager, Denver Airports District Office



U.S. Department
of Transportation
Federal Aviation
Administration

FEDERAL AVIATION ADMINISTRATION AIRPORT IMPROVEMENT PROGRAM

FY 2023 Airport Improvement Program (AIP)

GRANT AGREEMENT

Part I - Offer

Federal Award Offer Date	{{DateTime_es_.signer1:calc(now()):format(date," mmmm d, yyyy")}}	
Airport/Planning Area	Pueblo Memorial Airport	
FY2023 AIP Grant Number	3-08-0046-048-2023	[Contract No.DOT-FA23NM1079]
Unique Entity Identifier	NJK3BNUDRHJ7	
TO:	City of Pueblo, Colorado	
	(herein called the "Sponsor")	

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated January 12, 2023, for a grant of Federal funds for a project at or associated with the Pueblo Memorial Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Pueblo Memorial Airport (herein called the "Project") consisting of the following:

Rehabilitate Runway 8R/26L and Reconstruct Runway 8R/26L Lighting (construction)

which is more fully described in the Project Application.

NOW THEREFORE, Pursuant to and for the purpose of carrying out the Title 49, United States Code (U.S.C.), Chapters 471 and 475; 49 U.S.C. §§ 40101 et seq., and 48103; FAA Reauthorization Act of 2018 (Public Law Number 115-254); the Department of Transportation Appropriations Act, 2021 (Public Law 116-260, Division L); the Consolidated Appropriations Act, 2022 (Public Law 117-103); Consolidated Appropriations Act, 2023 (Public Law 117-328); and the representations contained in the Project

Application; and in consideration of: (a) the Sponsor's adoption and ratification of the Grant Assurances attached hereto; (b) the Sponsor's acceptance of this Offer; and (c) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurance and conditions as herein provided;

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay ninety-five (95) percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.

Assistance Listings Number (Formerly CFDA Number): 20.106

This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$9,316,522.

The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):

\$ 0 for planning;

\$ 9,316,522 airport development or noise program implementation; and,

\$ 0 for land acquisition.

The source of this Grant includes funding from the Small Airport Fund, in accordance with 49 U.S.C. § 47116.

2. **Grant Performance.** This Grant Agreement is subject to the following Federal award requirements:
 - a. Period of Performance:
 1. Shall start on the date the Sponsor formally accepts this Agreement and is the date signed by the last Sponsor signatory to the Agreement. The end date of the Period of Performance is 4 years (1,460 calendar days) from the date of acceptance. The Period of Performance end date shall not affect, relieve, or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant Agreement.
 2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods. (2 Code of Federal Regulations (CFR) § 200.1).
 - b. Budget Period:
 1. For this Grant is 4 years (1,460 calendar days) and follows the same start and end date as the Period of Performance provided in paragraph (2)(a)(1). Pursuant to 2 CFR § 200.403(h), the Sponsor may charge to the Grant only allowable costs incurred during the Budget Period.
 2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the Sponsor is authorized to

expend the funds awarded, including any funds carried forward or other revisions pursuant to 2 CFR § 200.308.

c. Close Out and Termination

1. Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 120 calendar days after the end date of the period of performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will proceed to close out the grant within one year of the Period of Performance end date with the information available at the end of 120 days. (2 CFR § 200.344).
2. The FAA may terminate this Grant, in whole or in part, in accordance with the conditions set forth in 2 CFR § 200.340, or other Federal regulatory or statutory authorities as applicable.
3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
4. **Indirect Costs - Sponsor.** The Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages.
5. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with 49 U.S.C. § 47109, the regulations, policies, and procedures of the Secretary of Transportation ("Secretary"), and any superseding legislation. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
6. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this Agreement, 49 U.S.C. Chapters 471 and 475, the regulations, and the Secretary's policies and procedures. Per 2 CFR § 200.308, the Sponsor agrees to report and request prior FAA approval for any disengagement from performing the project that exceeds three months or a 25 percent reduction in time devoted to the project. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the grant assurances, which are part of this Agreement.
7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before September 14, 2023, or such subsequent date as may be prescribed in writing by the FAA.
9. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this Grant Agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to

this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.

10. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this Grant Agreement.
11. **System for Award Management (SAM) Registration and Unique Entity Identifier (UEI).**
 - a. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR § 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this Grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).
 - b. Unique entity identifier (UEI) means a 12-character alpha-numeric value used to identify a specific commercial, nonprofit or governmental entity. A UEI may be obtained from SAM.gov at <https://sam.gov/content/entity-registration>.
12. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this Agreement electronically via the Delphi invoicing System for Department of Transportation (DOT) Financial Assistance Awardees.
13. **Informal Letter Amendment of AIP Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.

The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of Condition No. 1, Maximum Obligation.

The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

An informal letter amendment has the same force and effect as a formal grant amendment.
14. **Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this Grant Agreement.

15. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.
16. **Buy American.** Unless otherwise approved in advance by the FAA, in accordance with 49 U.S.C. § 50101, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this Grant. The Sponsor will include a provision implementing Buy American in every contract and subcontract awarded under this Grant.
17. **Build America, Buy America.** The Sponsor must comply with the requirements under the Build America, Buy America Act (Public Law 117-58).
18. **Maximum Obligation Increase.** In accordance with 49 U.S.C. § 47108(b)(3), as amended, the maximum obligation of the United States, as stated in Condition No. 1, Maximum Obligation, of this Grant Offer:
 - a. May not be increased for a planning project;
 - b. May be increased by not more than 15 percent for development projects if funds are available;
 - c. May be increased by not more than the greater of the following for a land project, if funds are available:
 1. 15 percent; or
 2. 25 percent of the total increase in allowable project costs attributable to acquiring an interest in the land.

If the Sponsor requests an increase, any eligible increase in funding will be subject to the United States Government share as provided in 49 U.S.C. § 47110, or other superseding legislation if applicable, for the fiscal year appropriation with which the increase is funded. The FAA is not responsible for the same Federal share provided herein for any amount increased over the initial grant amount. The FAA may adjust the Federal share as applicable through an informal letter of amendment.

19. **Audits for Sponsors.**

PUBLIC SPONSORS. The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. Upon request of the FAA, the Sponsor shall provide one copy of the completed audit to the FAA. Sponsors that expend less than \$750,000 in Federal awards and are exempt from Federal audit requirements must make records available for review or audit by the appropriate Federal agency officials, State, and Government Accountability Office. The FAA and other appropriate Federal agencies may request additional information to meet all Federal audit requirements.

20. **Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:
 - a. Verify the non-Federal entity is eligible to participate in this Federal program by:

1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if the non-Federal entity is excluded or disqualified; or
 2. Collecting a certification statement from the non-Federal entity attesting they are not excluded or disqualified from participating; or
 3. Adding a clause or condition to covered transactions attesting the individual or firm are not excluded or disqualified from participating.
- b. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions with their contractors and sub-contractors.
 - c. Immediately disclose in writing to the FAA whenever (1) the Sponsor learns they have entered into a covered transaction with an ineligible entity or (2) the Public Sponsor suspends or debars a contractor, person, or entity.

21. Ban on Texting While Driving.

- a. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
 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.
- b. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts, and subcontracts funded with this Grant.

22. Trafficking in Persons.

- a. *Posting of contact information.*
 1. The Sponsor must post the contact information of the national human trafficking hotline (including options to reach out to the hotline such as through phone, text, or TTY) in all public airport restrooms.
- b. *Provisions applicable to a recipient that is a private entity.*
 1. You as the recipient, your employees, subrecipients under this Grant, and subrecipients' employees may not:
 - i. Engage in severe forms of trafficking in persons during the period of time that the Grant and applicable conditions are in effect;
 - ii. Procure a commercial sex act during the period of time that the Grant and applicable conditions are in effect; or

- iii. Use forced labor in the performance of the Grant or any subgrants under this Grant.
- 2. We as the Federal awarding agency, may unilaterally terminate this Grant, without penalty, if you or a subrecipient that is a private entity –
 - i. Is determined to have violated a prohibition in paragraph (a) of this Grant Condition; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the Grant to have violated a prohibition in paragraph (a) of this Grant Condition through conduct that is either –
 - a) Associated with performance under this Grant; or
 - b) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Part 1200.
- c. *Provision applicable to a recipient other than a private entity.* We as the Federal awarding agency may unilaterally terminate this Grant, without penalty, if a subrecipient that is a private entity –
 - 1. Is determined to have violated an applicable prohibition in paragraph (a) of this Grant Condition; or
 - 2. Has an employee who is determined by the agency official authorized to terminate the Grant to have violated an applicable prohibition in paragraph (a) of this Grant Condition through conduct that is either –
 - i. Associated with performance under this Grant; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Part 1200.
- d. *Provisions applicable to any recipient.*
 - 1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph (a) of this Grant Condition.
 - 2. Our right to terminate unilaterally that is described in paragraph (a) or (b) of this Grant Condition:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended [22 U.S.C. § 7104(g)], and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this Grant.
 - 3. You must include the requirements of paragraph (a) of this Grant Condition in any subgrant you make to a private entity.

e. *Definitions.* For purposes of this Grant Condition:

1. "Employee" means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this Grant; or
 - ii. Another person engaged in the performance of the project or program under this Grant and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
 2. "Force labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
 3. "Private entity":
 - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR § 175.25.
 - ii. Includes:
 - a) A nonprofit organization, including any nonprofit institute of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR § 175.25(b).
 - b) A for-profit organization.
 4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).
23. **AIP Funded Work Included in a PFC Application.** Within 90 days of acceptance of this Grant Agreement, the Sponsor must submit to the FAA an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this Grant Agreement as described in the project application. The airport sponsor may not make any expenditure under this Grant Agreement until project work addressed under this Grant Agreement is removed from an approved PFC application by amendment.
24. **Exhibit "A" Property Map.** The Exhibit "A" Property Map dated January 6, 2022, is incorporated herein by reference or is submitted with the project application and made part of this Grant Agreement.
25. **Employee Protection from Reprisal.**
- a. Prohibition of Reprisals
 1. In accordance with 41 U.S.C. § 4712, an employee of a Sponsor, grantee, subgrantee, contractor, or subcontractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (a)(2) below, information that the employee reasonably believes is evidence of:
 - i. Gross mismanagement of a Federal grant;

- ii. Gross waste of Federal funds;
 - iii. An abuse of authority relating to implementation or use of Federal funds;
 - iv. A substantial and specific danger to public health or safety; or
 - v. A violation of law, rule, or regulation related to a Federal grant.
- 2. Persons and bodies covered. The persons and bodies to which a disclosure by an employee is covered are as follows:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Federal employee responsible for contract or grant oversight or management at the relevant agency;
 - v. A court or grand jury;
 - vi. A management official or other employee of the Sponsor, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct; or
 - vii. An authorized official of the Department of Justice or other law enforcement agency.
- b. Investigation of Complaints.
 - 1. Submission of Complaint. A person who believes that they have been subjected to a reprisal prohibited by paragraph (a) of this Condition may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
 - 2. Time Limitation for Submittal of a Complaint. A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
 - 3. Required Actions of the Inspector General. Actions, limitations, and exceptions of the Inspector General's office are established under 41 U.S.C. § 4712(b).
- c. Remedy and Enforcement Authority.
 - 1. Assumption of Rights to Civil Remedy. Upon receipt of an explanation of a decision not to conduct or continue an investigation by the OIG, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c)(2).
- 26. **Prohibited Telecommunications and Video Surveillance Services and Equipment.** The Sponsor agrees to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)] and 2 CFR § 200.216.
- 27. **Critical Infrastructure Security and Resilience.** The Sponsor acknowledges that it has considered and addressed physical and cybersecurity and resilience in their project planning, design, and oversight, as determined by the DOT and the Department of Homeland Security (DHS). For airports that do not have specific DOT or DHS cybersecurity requirements, the FAA encourages the voluntary adoption of the cybersecurity requirements from the Transportation Security Administration and Federal Security Director identified for security risk Category X airports.

SPECIAL CONDITIONS

28. **Final Project Documentation.** The Sponsor understands and agrees that in accordance with 49 USC 47111, and with the Airport District Office's (ADO) concurrence, that no payments totaling more than 90.0 percent of United States Government's share of the project's estimated allowable cost may be made before the project is determined to be substantially complete. Substantially complete means the following: (1) The project results in a complete, usable unit of work as defined in the grant agreement and (2) The sponsor submits necessary documents showing that the project is substantially complete per the contract requirements, or has a plan (that FAA agrees with) that addresses all elements contained on the punch list. Furthermore, no payments totaling more than 97.5 percent of the United States Government's share of the project's estimated allowable cost may be made until: (1) The sponsor submits all necessary closeout documentation and (2) The sponsor receives final payment notification from the ADO.
29. **Airports Geographic Information System (AGIS) Requirements.** AGIS requirements, as specified in Advisory Circular 150/5300-18, apply to the project included in this grant offer. Final construction as-built information or planning deliverables must be collected according to these specifications and submitted to the FAA. The submittal must be reviewed and accepted by the FAA before the grant can be administratively closed.
30. **Solid Waste Recycling Plan.** The Sponsor certifies that it has a solid waste recycling plan as part of an existing Airport Master Plan, as prescribed by 49 U.S.C. § 47106(a)(6).
31. **Airport Layout Plan.** The Sponsor understands and agrees to update the Airport Layout Plan to reflect the construction to standards satisfactory to the FAA and submit it in final form to the FAA as prescribed by 49 U.S.C. § 47107(a)(16). It is further mutually agreed that the reasonable cost of developing said Airport Layout Plan Map is an allowable cost within the scope of this project, if applicable. Airport Sponsors Grant Assurance 29 further addresses the Sponsor's statutory obligations to maintain an airport layout plan in accordance with 49 U.S.C. § 47107(a)(16).
32. **Lighting.** The Sponsor must operate and maintain the lighting system during the useful life of the system in accordance with applicable FAA standards.
33. **Pavement Maintenance Management Program.** The Sponsor agrees that it will implement an effective airport pavement maintenance management program as required by Airport Sponsor Grant Assurance 11, Pavement Preventive Maintenance-Management, which is codified at 49 U.S.C. § 47105(e). The Sponsor agrees that it will use the program for the useful life of any pavement constructed, reconstructed, or repaired with Federal financial assistance at the airport. The Sponsor further agrees that the program will:
 - a. Follow the current version of FAA Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," for specific guidelines and procedures for maintaining airport pavements, establishing an effective maintenance program, specific types of distress and its probable cause, inspection guidelines, and recommended methods of repair;
 - b. Detail the procedures to be followed to assure that proper pavement maintenance, both preventive and repair, is performed;
 - c. Include a Pavement Inventory, Inspection Schedule, Record Keeping, Information Retrieval, and Reference, meeting the following requirements:

1. Pavement Inventory. The following must be depicted in an appropriate form and level of detail:
 - i. Location of all runways, taxiways, and aprons;
 - ii. Dimensions;
 - iii. Type of pavement; and,
 - iv. Year of construction or most recent major rehabilitation.
2. Inspection Schedule.
 - i. Detailed Inspection. A detailed inspection must be performed at least once a year. If a history of recorded pavement deterioration is available, i.e., Pavement Condition Index (PCI) survey as set forth in the current version of Advisory Circular 150/5380-6, the frequency of inspections may be extended to three years.
 - ii. Drive-By Inspection. A drive-by inspection must be performed a minimum of once per month to detect unexpected changes in the pavement condition. For drive-by inspections, the date of inspection and any maintenance performed must be recorded.
3. Record Keeping. Complete information on the findings of all detailed inspections and on the maintenance performed must be recorded and kept on file for a minimum of five years. The type of distress, location, and remedial action, scheduled or performed, must be documented. The minimum information is:
 - i. Inspection date;
 - ii. Location;
 - iii. Distress types; and
 - iv. Maintenance scheduled or performed.
4. Information Retrieval System. The Sponsor must be able to retrieve the information and records produced by the pavement survey to provide a report to the FAA as may be required.

34. **Project Containing Paving Work in Excess of \$500,000.** The Sponsor agrees to:

- a. Furnish a construction management program to the FAA prior to the start of construction which details the measures and procedures to be used to comply with the quality control provisions of the construction contract, including, but not limited to, all quality control provisions and tests required by the Federal specifications. The program must include as a minimum:
 1. The name of the person representing the Sponsor who has overall responsibility for contract administration for the project and the authority to take necessary actions to comply with the contract;
 2. Names of testing laboratories and consulting engineer firms with quality control responsibilities on the project, together with a description of the services to be provided;

3. Procedures for determining that the testing laboratories meet the requirements of the ASTM International standards on laboratory evaluation referenced in the contract specifications (i.e., ASTM D 3666, ASTM C 1077);
 4. Qualifications of engineering supervision and construction inspection personnel;
 5. A listing of all tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test; and
 6. Procedures for ensuring that the tests are taken in accordance with the program, that they are documented daily, and that the proper corrective actions, where necessary, are undertaken.
- b. Submit at completion of the project, a final test and quality assurance report documenting the summary results of all tests performed and highlighting those tests that indicated failure or that did not meet the applicable test standard. The report must include the pay reductions applied and the reasons for accepting any out-of-tolerance material. Submit interim test and quality assurance reports when requested by the FAA.
 - c. Failure to provide a complete report as described above, or failure to perform such tests, will, absent any compelling justification, result in a reduction in Federal participation for costs incurred in connection with construction of the applicable pavement. Such reduction will be at the discretion of the FAA and will be based on the type or types of required tests not performed or not documented and will be commensurate with the proportion of applicable pavement with respect to the total pavement constructed under the Grant Agreement.
 - d. The FAA, at its discretion, reserves the right to conduct independent tests and to reduce grant payments accordingly if such independent tests determine that Sponsor test results are inaccurate.
35. **Buy American Executive Orders.** The Sponsor agrees to abide by applicable Executive Orders in effect at the time this Grant Agreement is executed, including Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the Grant Assurances, terms, and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.¹

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**

{{Sig_es_:signer1:signature:dimension(height=12mm, width=70mm)}}

(Signature)

{{N_es_:signer1:fullname }}

(Typed Name)

{{*Ttl_es_:signer1:title }}

(Title of FAA Official)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the Grant Assurances, terms, and conditions in this Offer and in the Project Application.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.²

Dated {{DateTime_es_:signer2:calc(now()):format(date," mmmm d, yyyy")}}

CITY OF PUEBLO, COLORADO

(Name of Sponsor)

{{Sig_es_:signer2:signature:dimension(height=12mm, width=70mm)}}

(Signature of Sponsor's Authorized Official)

By: {{N_es_:signer2:fullname}}

(Typed Name of Sponsor's Authorized Official)

Title: {{*Ttl_es_:signer2:title}}

(Title of Sponsor's Authorized Official)

² Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

CERTIFICATE OF SPONSOR'S ATTORNEY

I, **{{N_es :signer3: fullname}}**, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Colorado. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative, who has been duly authorized to execute this Grant Agreement, which is in all respects due and proper and in accordance with the laws of the said State; and Title 49, United States Code (U.S.C.), Chapters 471 and 475; 49 U.S.C. §§ 40101 et seq., and 48103; FAA Reauthorization Act of 2018 (Public Law Number 115-254); the Department of Transportation Appropriations Act, 2021 (Public Law 116-260, Division L); the Consolidated Appropriations Act, 2022 (Public Law 117-103); Consolidated Appropriations Act, 2023 (Public Law 117-328); and the representations contained in the Project Application. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.³

Dated at **{{DateTime_es :signer3:calc(now()):format(date," mmmm d, yyyy")}}**

By: **{{Sig_es :signer3:signature:dimension(height=12mm, width=70mm)}}**

(Signature of Sponsor's Attorney)

³ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

ASSURANCES

AIRPORT SPONSORS

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this Grant Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph (1) also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.**

Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, and 37 in Section C apply to planning projects. The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements

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 Grant including but not limited to the following:

FEDERAL LEGISLATION

- a. 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. § 201, et seq.
- d. Hatch Act – 5 U.S.C. § 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601, et seq.^{1, 2}
- f. National Historic Preservation Act of 1966 – Section 106 - 54 U.S.C. § 306108.1.¹
- g. Archeological and Historic Preservation Act of 1974 - 54 U.S.C. § 312501, et seq.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section § 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended - 42 U.S.C. § 7401, et seq.
- 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.¹
- l. 49 U.S.C. § 303, (formerly known as Section 4(f)).
- m. Rehabilitation Act of 1973 - 29 U.S.C. § 794.
- n. 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).
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. § 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968, as amended - 42 U.S.C. § 4151, et seq.¹
- s. Powerplant and Industrial Fuel Use Act of 1978 – Section 403 - 42 U.S.C. § 8373.¹
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. § 3701, et seq.¹
- u. Copeland Anti-kickback Act - 18 U.S.C. § 874.¹
- v. National Environmental Policy Act of 1969 - 42 U.S.C. § 4321, et seq.¹
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.
- x. Single Audit Act of 1984 - 31 U.S.C. § 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. §§ 8101 through 8105.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (P.L. 109-282, as amended by section 6202 of P.L. 110-252).

- aa. Civil Rights Restoration Act of 1987, P.L. 100-259.
- bb. Build America, Buy America Act, P.L. 117-58, Title IX.

EXECUTIVE ORDERS

- a. Executive Order 11246 – Equal Employment Opportunity¹
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 – Environmental Justice
- g. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency
- h. Executive Order 13985 – Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 13988 – Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation
- j. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America’s Workers
- k. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

FEDERAL REGULATIONS

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.^{4, 5}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice For Federally-Assisted Airport Enforcement Proceedings.
- f. 14 CFR Part 150 – Airport Noise Compatibility Planning.
- g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.
- h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.¹
- j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.¹

- k. 29 CFR Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).¹
- l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted contracting requirements).¹
- m. 49 CFR Part 20 – New Restrictions on Lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.^{1 2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.¹
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- t. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 38 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.
- x. 49 CFR Part 41 – Seismic Safety.

FOOTNOTES TO ASSURANCE (C)(1)

- ¹ These laws do not apply to airport planning sponsors.
- ² These laws do not apply to private sponsors.
- ³ 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- ⁴ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- ⁵ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

2. Responsibility and Authority of the Sponsor.**a. Public Agency Sponsor:**

It has legal authority to apply for this Grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this Grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this Grant Agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or

document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.

- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance-Management.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under 49 U.S.C. § 44706, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a Grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United

States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor under 40 U.S.C. §§ 3141-3144, 3146, and 3147, Public Building, Property, and Works), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in 49 U.S.C. § 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this Grant Agreement, and, upon approval of the Secretary, shall be incorporated into this Grant Agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this Grant Agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, State and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:
 - 1. Operating the airport's aeronautical facilities whenever required;
 - 2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3. Promptly notifying pilots of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be 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.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:
 1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the

revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. § 47102), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
- c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of 49 U.S.C. § 47107.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan 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;
 3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
 4. all proposed and existing access points used to taxi aircraft across the airport's property boundary.

Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The

sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary:
 - 1. eliminate such adverse effect in a manner approved by the Secretary; or
 - 2. bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, color, and national origin (including limited English proficiency) 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); creed and sex (including sexual orientation and gender identity) per 49 U.S.C. § 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this Grant.

- a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability
 - 1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 - 2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
 - 3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, 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.
- c. Duration.

The sponsor agrees that it is obligated to this assurance 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 sponsor, or any transferee for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
 2. So long as the sponsor retains ownership or possession of the property.
- d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:
- “The **City of Pueblo, Colorado**, 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 or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.”
- e. Required Contract Provisions.
1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
 2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
 3. It will insert non-discrimination contract clauses 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 sponsor.
 4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor 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.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other

participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.

- g. It 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.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:

1. Reinvestment in an approved noise compatibility project;
2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117
4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:

1. Reinvestment in an approved noise compatibility project;
2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117
4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will 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 in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U.S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this Grant to be used to fund any project which uses 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.

34. Policies, Standards, and Specifications.

It will carry out any project funded under an Airport Improvement Program Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars (<https://www.faa.gov/airports/aip/media/aip-pfc-checklist.pdf>) for AIP projects as of January 12, 2023.

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24 and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin, or sex, in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in 49 U.S.C. § 47102) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that:
 1. Describes the requests;
 2. Provides an explanation as to why the requests could not be accommodated; and
 3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

GRANT CERTIFICATION

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

Re: Airport Improvement Program (AIP) Grant No. 3-08-0046-048-2023
Rehabilitate Runway 8R/26L and Reconstruct Runway 8R/26L Lighting (construction)

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) Gloria Porroza, [Signature]

7-31-23
Date

Title: Director of Aviation



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 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 A PROFESSIONAL ENGINEERING SERVICES AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND DIBBLE AND ASSOCIATES CONSULTING ENGINEERS, INC., FOR THE CONSTRUCTION ADMINISTRATION FOR THE REHABILITATION OF RUNWAY 8R/26L AND TAXIWAY A2 REMOVAL (PHASE 2 – CONSTRUCTION) PROJECT, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance will approve a Professional Engineering Services Agreement between the City of Pueblo, a municipal corporation, and Dibble and Associates Consulting Engineers, Inc., for the construction administration for the rehabilitation of Runway 8R/26L and Taxiway A2 Removal (Phase 2 – Construction) project.

PREVIOUS COUNCIL ACTION:

Ordinance No. 10242, adopted by City Council on August 8, 2022, accepted FAA grant funds, established Project No. AP2205 - Rehab of Runway 8R-26L Design and Construction for the initial design phase, and approved a Professional Engineering Services agreement for the initial design.

Ordinance No. 10253, adopted by City Council on August 24, 2022, accepted CDOT grant funds for costs related to the initial design.

Ordinance No. 10353, adopted by City Council on December 27, 2022, approved an amendment to the Professional Engineering Services agreement for additional design work to be completed to replace the Airfield Lighting Control and Monitoring System.

Ordinance No. 10486, adopted by City Council on June 26, 2023, accepted CDOT grand funds for costs related to project construction.

Ordinance No. 10508, adopted by City Council on July 24, 2023, accepted FAA grant funds for costs related to Airfield Lighting Control and Monitoring System replacement.

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 schedule for 2022, approved by both the FAA and CDOT for Entitlement Fund use. Dibble and Associates Consulting Engineers, Inc., is the Pueblo Memorial Airport's contracted engineering consultants and submitted a proposal for construction administration for the runway rehabilitation project (Phase 2 – Construction).

FINANCIAL IMPLICATIONS:

The total cost for construction administration is \$666,919.42, 97.5% of which will be reimbursed through FAA and CDOT grants.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the Professional Engineering Services Agreement will not be approved, and the project will not occur.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. Dibble_AP2205 Runway 8R-26L Rehabilitation and Taxiway A2 Removal Final

ORDINANCE NO.

AN ORDINANCE APPROVING A PROFESSIONAL ENGINEERING SERVICES AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND DIBBLE AND ASSOCIATES CONSULTING ENGINEERS, INC., FOR THE CONSTRUCTION ADMINISTRATION FOR THE REHABILITATION OF RUNWAY 8R/26L AND TAXIWAY A2 REMOVAL (PHASE 2 – CONSTRUCTION) PROJECT, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, Dibble & Associates as the Airport's contracted engineering consulting firm provided a proposal for construction administration services for the rehabilitation of Runway 8R/26L and Taxiway A2 Removal (Phase 2 – Construction) project; NOW, THEREFORE

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

SECTION 1.

The Agreement for Professional Engineering Services ("Professional Services Agreement"), a copy of which is attached hereto and made part hereof by reference, by and between the City of Pueblo, a Municipal Corporation, and Dibble and Associates Consulting Engineers, Inc., an Arizona Corporation, to provide engineering construction administration services for the rehabilitation of Runway 8R/26L and Taxiway A2 Removal (Phase 2 – Construction) at Pueblo Memorial Airport, after having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute the Professional Services 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. Where authorized pursuant to §1-4-3, P.M.C., the Mayor may execute the Professional Services Agreement by electronic signature, and such electronic signature shall be attributable to the Mayor and the City of Pueblo.

SECTION 3.

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

SECTION 4.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

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

☐ Ordinance re-adopted on a vote of _____, on _____

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

President of City Council

ATTEST

City Clerk

STANDARD FORM OF
AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

THIS AGREEMENT made and entered this 1st day of September, 2023 ("Effective Date") by and between the City of Pueblo, a Municipal Corporation (hereinafter "Owner"), and Dibble and Associates Consulting Engineers, Inc., an Arizona Corporation, doing business as Dibble Engineering, a professional engineering firm (hereinafter "Engineer"), for Engineer to render certain professional planning, design, engineering, construction administration, and related services for Owner in connection with Project No. AP2205, Project Name: Runway 8R-26L Rehabilitation and Taxiway A2 Removal, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

SECTION 1. GENERAL.

1.1 Engineer shall satisfactorily perform professional engineering services for all phases of Project indicated below by mark placed in the appropriate box or boxes:

- ☐ - Study and Report Phase
- ☐ - Preliminary Design (Schematic) Phase
- ☐ - Final Design Phase
- ☒ - Construction Documents & Bidding Phase
- ☒ - Construction Phase

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

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

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

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

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

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

SECTION 2. ENGINEERING SERVICES.

2.1 Study and Report Phase. If Engineer is to provide professional services with respect to the Project during the Study and Report Phase, Engineer shall:

- (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 two (2) 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:

- (a) Consult with Owner and determine the general design concept and Project requirements based upon information furnished by Owner as well as any study or Report on the Project.
- (b) Prepare and submit to Owner preliminary design documents consisting of final design criteria, preliminary drawings, an outline of specifications, and written descriptions of all significant features of Project.
- (c) Prepare and submit to Owner a requirements checklist of any subsurface investigation, additional data, permits, or other information and requirements which is anticipated will be necessary for the design or construction of Project.
- (d) Provide written disclosure to Owner of significant design assumptions and design risks and advantages/disadvantages inherent in or presented by design alternatives, and make recommendations to Owner based thereon.
- (e) Prepare and submit to Owner a preliminary cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, costs of land and rights of way, compensation for damages and finance costs, if any.
- (f) Engineer shall furnish two (2) 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:

(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 requirements therefor. Such plans and Specifications shall comply with all applicable building codes and requirements of regulatory agencies having any approval authority, including but not limited to any requirements of the Federal Aviation Administration. Final design, including Drawings and Specifications, shall also comply with ADA Accessibility Guidelines (ADAAG) Manual developed by the U. S. Architectural and Transportation Barriers Board (1998) or ADA Standards for Accessible Design published at 28 C.F.R. Part 36, Appendix A, whichever is applicable. **Engineer shall include an attest statement on each record drawing sheet of final plan drawings that certifies compliance with either the ADAAG Manual or 28 CFR 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 best professional judgment, prepare and submit to Owner a current detailed cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, land and right of way costs, damages, and finance costs, if any.

(e) Engineer shall furnish two (2) 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:

(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 Appendix A 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. Two (2) copies of these final bid documents shall be furnished to Owner. Unless otherwise specified in Appendix A, a copy of all contract documents and drawings shall also be submitted to Owner in Microsoft Word and AutoCAD (2018 or later version) format on electronic media.

(c) Make recommendations to Owner concerning the need for prequalification of equipment, vendors or bidders, and, if requested by Owner, incorporate prequalification requirements in final bid and construction contract documents.

(d) Attend a pre-bid conference with bidders to discuss Project requirements and receive requests for clarification, if any, to be answered by Engineer in writing to all plan holders.

(e) Consult with and make recommendations to Owner concerning: acceptability of bidders, subcontractors, suppliers, materials, equipment, suitability of proposed "or equals", amount of bids and any other matter involved in consideration and review of bids and bidders upon which Owner may reasonably request Engineer's advice.

2.5 Construction Phase. If Engineer is to provide professional services with respect to the Project during the Construction Phase, after award by the Owner of a general contract or contracts for construction of the Project, Engineer shall:

(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 Appendix A - Scope of Services concerning the level of observation shall determine Engineer's obligation concerning level of observation.

(c) Make determinations as to whether the work is proceeding in accordance and compliance with the construction contract documents.

(d) Promptly advise the Owner in writing of any omissions, substitutions, defects or deficiencies noted in the work of any contractor, subcontractor, supplier or vendor on the Project.

(e) Reject any work on the Project that does not conform to the contract documents.

(f) On request of the Owner, the construction contractor or any subcontractor on the Project, issue written interpretations as to the Drawings and Specifications and requirements of the construction work.

(g) Review shop drawings, samples, product data and other submittals of the contractor for conformance with the design concept of Project and compliance with the Drawings, Specifications and all other contract documents, and indicate to Contractor and Owner with respect thereto, any exceptions noted, or modification or resubmittals required.

(h) Review all applications of Contractor for payment and in connection with same, issue certificates for payment to the Owner for such amounts as are properly payable under the terms of the construction contract. Each such certificate shall constitute Engineer's representation to Owner that he has inspected the Project and that to the best of his knowledge, the work for which payment has been sought has been completed by Contractor in accordance with the Drawings, Specifications and other contract documents.

(i) Subject to written concurrence by Owner, promptly render a written recommendation to Owner concerning all proposed substitutions of material and equipment.

(j) Draft, for Owner's consideration, and offer recommendations upon, all proposed change orders and contract modifications.

(k) On application for final payment by the Contractor, make a final inspection of the Project, assembling and delivering to the Owner any written guaranties, instructions manuals, as-built drawings, diagrams, and charts required by the contract documents, and issuing a certificate of final completion of the Project.

(l) The Engineer shall, if 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 Public Works of the Owner shall, within seven calendar days after receipt of the Engineer's interpretation or decision, file his written objections thereto with the Architect and Contractor.

2.6 Additional Responsibilities. This paragraph applies to all phases of Engineer's work.

(a) Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all of Engineer's work, including that performed by Engineer's consultants, and including designs, Drawings, Specifications, reports and other services, irrespective of Owner's approval or acquiescence in same. Engineer shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in the work.

(b) Engineer shall be responsible, in accordance with applicable law, to Owner for all loss or damage to Owner caused by Engineer's negligent act or omission; and Engineer hereby irrevocably waives and excuses Owner and its attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S., or similar statute.

(c) Engineer's professional responsibility shall comply with the standard of care applicable to the type of engineering and architectural services provided, commensurate with the size, scope, and nature of the Project.

(d) Engineer shall be completely responsible for the safety of Engineer's employees, subcontractors, and consultants in the execution of work under this Agreement, shall provide all necessary safety equipment for said employees, subcontractors, and consultants and shall hold harmless and indemnify and defend Owner from any and all claims, suits, loss or injury to Engineer's employees, subcontractors, and consultants.

(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 Appendix C - "Identification of Personnel, Subcontractors and Task Responsibility," attached hereto for the Project assignments and areas of responsibility stated therein. Within 10 days of execution of this Agreement, Owner shall have the right to object in writing to employment on the Project of any such key person, consultant or assignment of principal responsibility, in which case Engineer will employ alternate personnel for such function or reassign such responsibility to another to whom Owner has no reasonable objection. Thereafter, Engineer shall not assign or reassign Project work to any person to whom Owner has reasonable objection.

Within five (5) days of execution of this Agreement, Engineer shall designate in writing a Project representative who shall have complete authority to bind Engineer, and to whom Owner should address communications.

(f) Promptly after execution of this Agreement and upon receipt of authorization from Owner to proceed, Engineer shall submit to Owner for approval a schedule showing the order in which Engineer proposes to accomplish his work, with dates on which he will commence and complete each major work item. The schedule shall provide for performance of the work in a timely manner so as to not delay

Owner's time table 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 Appendix B - "Fee Schedule".

2.7 Requirements Where Federal Assistance Provided.

(a) Engineer understands that Owner will be funding the Project in part or in whole by grants or loans from the Department of Transportation, Federal Aviation Administration (the "Federal Agency"). Engineer agrees it is subject to and shall comply with all applicable grant or loan conditions and the regulations of the Federal Agency which apply to the work under this Agreement, whether referenced in Appendix A or not. All applicable loan or grant conditions and regulations of the Federal Agency are incorporated into this Agreement by reference.

(b) Owner shall pay Engineer for work completed in accordance with the terms of this Agreement. Engineer understands and accepts that Owner is seeking reimbursement for the Project through applicable Federal loans or grants. Should the applicable Federal Agency indicate that loans or grants shall not be granted or approved by the Agency, performance under this Agreement shall be placed on hold until such time as the funds are granted and approved, except that no such extension shall continue past the expiration of the initial term of the master agreement approved through City of Pueblo Resolution No. 13785. Should Owner determine in its sole discretion that grant or approval of the required funds is impossible or unlikely, this Agreement shall terminate immediately upon notice from Owner and Owner shall not be liable for any cost or fee under this Agreement.

SECTION 3. OWNER'S RESPONSIBILITIES

3.1 Owner shall:

(a) Designate a representative to whom all communications from Engineer shall be directed and who shall have limited administrative authority on behalf of Owner to receive and transmit information and make decisions with respect to Project. Said representative shall not, however, have authority to bind Owner as to matters of legislative or fiscal policy.

(b) Advise Engineer of Owner's Project requirements including: objective, project criteria, use and performance requirements, special considerations, physical limitations, financial constraints, and required construction contract provisions and standards.

(c) Provide Engineer with available information pertinent to the Project including any previous reports, studies, or data possessed by Owner which relates to design or construction of the Project.

(d) Assist in arranging for Engineer to have access to enter private and public property as required for Engineer to perform his services.

(e) Examine all studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer, and render written decisions pertaining thereto within a reasonable

time. The Owner's approval of Drawings, design, Specifications, reports, and incidental engineering work or materials furnished hereunder shall not in any way relieve the Engineer of responsibility for the professional adequacy of his work. The Owner's review, approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

(f) Upon advice of the necessity to do so from Engineer, obtain required approvals and permits for the Project. The Engineer shall provide all supportive documents and exhibits necessary for obtaining said approvals and permits.

(g) Notify Engineer whenever Owner becomes aware of any substantial development or occurrence which materially affects the scope or timing of Engineer's services.

(h) Owner shall perform its obligations and render decisions within a reasonable time under the presented circumstances. However, given the nature of Owner's internal organization and requirements, a period of fourteen (14) days shall be presumed reasonable for any decision not involving policy decision or significant financial impact. A period of forty-five (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 Appendix A - Scope of Services and Sections 1 and 2 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 \$666,919.42 in the aggregate and computed in accordance with this Section. In the event compensation for services is set forth in Appendix B as to each phase of work indicated in Section 1.1 of this Agreement, the maximum amount of compensation for any phase shall not exceed the amount specified in Appendix B for such phase, and together shall not exceed the maximum aggregate set forth herein.

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 forty (40) days of the date of billing, provided that sufficient documentation has been furnished, and further provided that Owner will not be required to pay more than 90% of the maximum amount unless the Engineer's services on the Project phases for which this Agreement is applicable have been completed to Owner's reasonable satisfaction and all required Engineer submittals have been provided.

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

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

5.5 No compensation shall be paid to Engineer for services required and expenditures incurred

in correcting Engineer's mistakes or negligence.

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

Section 6. Term and Termination

6.1 Term. The term of this Agreement begins on the Effective Date and ends on December 31, 2024, unless sooner terminated in accordance with this Agreement. City reserves the right to extend the term of this Agreement in one-year increments by written acceptance of both parties.

6.2 Fund Appropriation. This agreement is expressly made subject to the limitations of the Colorado Constitution. Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City Council of Pueblo, contrary to Article X, §20 of the Colorado Constitution or any other constitutional, statutory or charter debt limitation. Notwithstanding any other provision of this agreement, with respect to any financial obligation of City which may arise under this agreement in any fiscal year after the current year, in the event the budget or other means of appropriations for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure shall not constitute a default by or breach of this agreement. The termination of this Agreement due to lack of funding shall be without penalty to the City.

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

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

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

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

SECTION 7. GENERAL PROVISIONS.

7.1 (a) Ownership of Documents. All designs, Drawings, Specifications, technical data, and other documents or instruments procured or produced by the Engineer in the performance of this Agreement shall be the sole property of the Owner and the Owner is vested with all rights therein of whatever kind and however created, whether created by common law, statutory law, or by equity. The Engineer agrees

that the Owner shall have access at all reasonable times to inspect and make copies of all notes, designs, drawings, specifications, and all other technical data pertaining to the work to be performed under this Agreement.

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

7.2 Insurance and Indemnity.

(a) Engineer agrees that 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 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.

(ii) Comprehensive General and Automobile Liability Insurance with limits not less than One Million Dollars (\$1,000,000.00) per person and occurrence for personal injury, including but not limited to death and bodily injury, One Million Dollars (\$1,000,000.00) per occurrence for property damage, and One Million and No/100 Dollars (\$1,000,000.00) for excess umbrella liability.

(iii) Professional Liability Insurance in amounts and form acceptable to Owner, and with a deductible not exceeding \$50,000.00.

(c) Engineer agrees to hold harmless, defend, and indemnify Owner from and against any liability to third parties, arising out of negligent acts, errors, or omissions of Engineer, its employees, subcontractors and consultants. Engineer agrees to hold harmless, defend, and indemnify Owner from and against any liability to subcontractors and consultants, arising out of negligent acts, errors or omissions of Engineer and its employees, including claims of nonpayment. 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.

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, Attention: Greg Pedroza, Director of Aviation, Pueblo Memorial Airport, 31201 Bryan Circle, Pueblo, Colorado, or to the Engineer at 3020 East Camelback Road Suite 201 Phoenix, AZ 85016. 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 this Agreement shall control and supersede the conflicting provision in the Appendix or attachment. Any inconsistent resolution provision in any attachment to this Agreement shall be void.

7.5 Successors and Assigns. This Agreement shall be binding on the parties hereto and on their partners, heirs, executors, administrators, successors, and assigns; provided, however, that neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to the Engineer may be assigned by him without the written consent of the Owner.

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 Owner.

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

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, sexual orientation, 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, sexual orientation, national origin, disability, or age.

7.9 Severability. If any provision of this Agreement, except for Section 2.7, 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 2.7 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law or the terms of any federal grant, then this entire Agreement shall be void.

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

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

7.12 Access to Property Not Under Owner's Control. Engineer acknowledges that the Project may require access to property not under the control of Owner at the time of execution of this Agreement. Engineer and Engineer's employees and consultants shall, at Engineer's expense, obtain all additional necessary approvals and clearances required for access to such property. Owner shall assist Engineer in obtaining access to such property at reasonable times but make no warranty or representation whatsoever regarding access to such property. Engineer understands and agrees that entry to properties not under

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

SECTION 8. DISPUTES.

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

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

SECTION 9. APPENDICES.

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

Appendix A - "Scope of Services" consisting of 8 pages.

Appendix B - "Fee Schedule" consisting of 2 page.

Appendix C - "Identification of Personnel, Subcontractors and Task Responsibility"
Consisting of 2 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 to implement applicable ADA requirements and other federal, state, and local laws, rules codes, ordinances, and regulations as they apply to the Project.

SECTION 11. STATE-IMPOSED MANDATES PROHIBITING ILLEGAL ALIENS FROM PERFORMING WORK.

(a) At or prior to the time for execution of this Agreement, Engineer shall submit to the Purchasing Agent of the City its certification that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that the Engineer will participate in either the "E-Verify Program" created in Public Law 208, 104th Congress, as amended and expanded in Public Law 156, 108th Congress, as amended, that is administered by the United States Department of Homeland Security or the "Department Program" established pursuant to section 8-17.5-102(5)(c), C.R.S. that is administered by the Colorado Department of Labor and Employment in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(b) Engineer shall not:

(I) Knowingly employ or contract with an illegal alien to perform work under this contract;

(II) Enter into a contract with a subconsultant that fails to certify to Engineer that the subconsultant shall not knowingly employ or contract with an illegal alien to perform work under this contract.

(c) The following state-imposed requirements apply to this contract:

(I) The Engineer shall have confirmed or attempted to confirm the employment eligibility of all of its employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.

(II) The Engineer is prohibited from using the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

(III) If the Engineer obtains actual knowledge that a subconsultant performing work under this Agreement knowingly employs or contracts with an illegal alien to perform work under this Agreement, the Engineer shall be required to:

A. Notify the subconsultant and the Purchasing Agent of the City within three (3) days that the Engineer has actual knowledge that the subconsultant is employing or contracting with an illegal alien; and

B. Terminate the subcontract with the subconsultant if within three (3) days of receiving the notice required pursuant to subparagraph (c)(III)A above, the subconsultant does not stop employing or contracting with the illegal alien; except that the Engineer shall not terminate the contract with the subconsultant if, during such three (3) days, the subconsultant provides information to establish that the subconsultant has not knowingly employed or contracted with an illegal alien.

(IV) The Engineer is required to comply with any reasonable request by the Colorado Department of Labor and Employment (hereinafter referred to as "CDLE") made in the course of an investigation that CDLE is undertaking pursuant to its authority under §8-17.5-102(5), C.R.S.

(d) Violation of this Section by the Engineer shall constitute a material breach of contract and grounds for immediate termination. In the event of such termination, the Engineer shall be liable for Owner's actual and consequential damages.

(e) Nothing in this Section shall be construed as requiring the Engineer to violate any terms of participation in the E-Verify Program.

(f) Violation of this Section 11 by the Engineer shall constitute a material breach of contract and grounds for immediate termination. In the event of such termination, the Engineer shall be liable for Owner's actual and consequential damages.

(g) As used in this Section 11, the term "subconsultant" shall mean any subconsultant or subcontractor of Engineer rendering services with the scope of this Agreement.

SECTION 12. PERA LIABILITY

The Engineer shall reimburse the Owner 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 Owner under this Agreement. Engineer has submitted to Owner a completed form listing any PERA retirees employed by Engineer and shall update said form with Owner at any time a PERA retiree is hired by Engineer.

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

CITY OF PUEBLO, A MUNICIPAL CORPORATION

DIBBLE AND ASSOCIATES
CONSULTING ENGINEERS, INC.

By: _____
Nicholas A. Gradisar, Mayor

Name: Kenneth L. Snyder
By: Kenneth L. Snyder
Title: Vice President

Attest: _____
City Clerk

[S E A L]

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

Director of Finance

APPROVED AS TO FORM:

City Attorney

**Pueblo Memorial Airport
Rehabilitate Runway 8R-26L and
Taxiway A2 Removal
(Bid and Construction Phase Services)
FAA AIP No. 3-08-0046-048-2022 (RW & Elec)
FAA AIP No. 3-08-0046-049-2022 (ALCMS)
City of Pueblo Project No. TBD
APPENDIX A – SCOPE OF SERVICES**

Introduction

Dibble (Engineer) has been requested by the City of Pueblo (City or Sponsor) and the Pueblo Memorial Airport (Airport or PUB) to provide bid and construction phase services for the *Runway 8R-26L Rehabilitation and Removal of Taxiway A2* project. This project will include a variable depth mill and overlay of the existing runway pavement area (150-foot width) as well as the taxiway connectors pavement (A1 and A3 through A10) up to the holding position pavement markings. The project limits for the removal of Taxiway A2 include complete removal of all asphalt pavement, lighting, and signage between Runway 8R-26L and 17-35 intersection and Taxiway A, and regrading of Taxiway A2 area to meet all RSA and TSA standards. This project also includes new runway lighting and signage and new Airfield Lighting Control System (ALCMS) as bid alternates.

This scope of work has been prepared in accordance with the scoping meeting held with FAA, PUB, and CDOT Aeronautics on February 9, 2023. The bid and construction phases for this project are anticipated to be funded by a 2023 FAA AIP grant (3-08-0046-048-2023) and supplemented by AIG (BIL) grant (if needed), along with the respective CDOT and local matching funds.

It is assumed that the 1-month Bid Phase will occur in March-April 2023 and federal funding received prior to October 1, 2023. If federal funding is received prior by mid-July, construction may occur in 2023. If federal funding is received around September 2023, construction is anticipated to occur in late-spring or early summer of 2024.

The Dibble Team key members consist of the following, (Dibble staff titles below are consistent with the classifications in the Manhour Matrix included with this proposal):

- | | |
|---|---------------------------|
| • Senior Project/Construction Manager (Dibble) | Jared Bass, P.E. |
| • Project Engineers (Dibble) | Kurt Dalton and Jim Hodge |
| • Construction Inspection Manager – Basis Partners (DBE) | Derek Phipps, P.E. |
| • Electrical Project Manager – CR Engineers (DBE) | Catherine Alcorn, P.E. |
| • Electrical Inspector – CR Engineers (DBE) | Shane Woodard |
| • Quality Assurance Testing – Terracon | Kirk Jackson, P.E. |
| • As-Built Surveyor – NorthStar Engineering and Surveying | Mike Cuppy, P.E. |

This proposal consists of comprehensive construction phase services as outlined herein, (reference Overall Construction Phasing Plan exhibit attached). As there are multiple bid schedules separate efforts will be broken

out to reflect the following construction Phases, (i.e. Base Bid – Schedule I and Additive Alternates – Schedules II and III):

- Phase 1A (RW 8R-26L West and TW A2 Removal): 7 calendar days and nights, anticipating two, 12-hour shifts.
- Phase 1B (RW 8R-26L East and TW's A4, A5, & A7-12): 14 calendar days and nights, anticipating two, 12-hour shifts.
- Phase 1C (RW Grooving): 28 calendar nights, approximately 6:00 pm – 6:00 am.
- Phase 1D (RW Pavement Marking): 3 calendar nights, approximately 6:00 pm – 6:00 am.
- Phase 2A (RW Electrical Lighting and Signage): 21 calendar days and nights, concurrent with Phases 1A and 1B, if Add Alt No. 1 is awarded.
- Phase 2B (ALCMS): 30 calendar days, concurrent with any phase, if Add Alt No. 2 is awarded.

Bid Phase Services

1) Bid Phase Services (Lump Sum):

- a) Project Management and Administration: provide all project management and coordination of the design team and the Airport, City of Pueblo, and FAA during the bidding phase. Dibble will attend, participate, and assist with the distribution and management of the bidding documents. Dibble will coordinate with City Procurement staff in management of bid documents and miscellaneous files.
- b) Pre-Bid Meeting and Site Visit: attend the pre-bid meeting and assist the Airport in conducting the meeting. Dibble, upon the direction of the Airport, will provide a brief overview of the project and contract components, identifying important elements within the documents that the contractors should be particularly familiar with prior to submitting a bid. Dibble shall also assist the Airport in developing and submitting the pre-bid meeting minutes to all plan holders.

Dibble will also assist the Airport with the airfield site visit for all interested parties.

- c) Bid Addenda: Pending contractors' reviews, comments, and questions, the Engineer will assist the Airport in developing and issuing any necessary addenda. Addenda may include revision to construction documents (i.e., plans and technical specifications). Dibble will also coordinate, address, and appropriately respond to all contractor communications and questions during the bidding process and submit responses through addenda as needed. All communication will follow the City of Pueblo regulations and requirements. It is anticipated that a maximum of three (3) addenda will be issued for this project.
- d) Bid Opening Meeting: the Engineer will attend the bid opening meeting to assist the Airport and Sponsor in reviewing and organizing the bidding documents from each contractor. Dibble will help gather the documents required to meet the federal project requirements.
- e) Bid Tabulation and Recommendation: the Engineer will evaluate each bid submitted for adherence to the local and federal requirements, mathematical/calculative errors, and for comparative purposes against the Engineer's OPCC and other bids submitted. Dibble will provide a bid summary letter stating all inconsistencies and results and a recommendation for the lowest responsible, responsive bidder. Included with this effort will be the review and evaluation support of the other contract components such as the DBE subcontractor evaluation, bid bonds, and adherence to other required federal assurances.

Dibble will further assist the Sponsor with review of the bidder's compliance with the other local required contract documents included in the bidding documents.

Construction Phase Services

2) **Pre-Construction Services (Lump Sum):**

- a) **Construction Management and Administration:** provide as-needed project management, coordination, support, and administration necessary to monitor the Contractor's operations and deliverables. Dibble will provide the FAA, Airport, and the Contractor with hard copies and electronic files of the conformed set of the final construction documents, (i.e., plans and specifications with all addenda issued during the bidding phase).
- b) **Preconstruction Conference:** conduct the Preconstruction Conference and provide support and/or coordination of the construction documents as needed. Dibble will prepare and provide the meeting agenda and sign-in sheet, facilitate the meeting, and issue meeting minutes. The Preconstruction Conference will be held at the Airport.
- c) **Construction Management Plan (CMP):** prepare a CMP in accordance with the FAA – AC 150/5370-12B, *Quality Management for Federally Funded Airport Construction Projects*, requirements. At a minimum the CMP shall include project scope of work and description, Engineer's roles and responsibilities, Contractor's responsibilities, Quality Assurance (QA) Testing Standards and frequency for each material, Quality Control (QC) Testing Standards and frequency for each material, and procedures to verify compliance. In addition, the standard test forms per the new Engineering Guideline 620-05 will be included in the CMP.

This report shall be submitted to the FAA a minimum of 10 calendar days before the anticipated start of construction.

- d) **Preconstruction Conference Submittal Reviews and Coordination:** review project submittals required at the Preconstruction Conference as identified within the contract documents including at a minimum:
 - Contractor's CSPP Compliance Report
 - Overall and 3-Week Construction Schedules
 - Material Submittal Schedule
 - Schedule of Values
 - Contractor's Emergency Contact Information
 - List of Proposed Construction Equipment
 - Barricade Plan
 - Traffic Control Plan
 - Contractor's Quality Control Plan
- e) **Construction Equipment Submittal to OE/AAA:** coordinate with the Contractor and Airport in developing and submitting the anticipated construction equipment with associated heights, locations, and timeframes to the FAA Airspace Review OE/AAA website.

Included in this effort is the development and submittal of the FAA-ATO Strategic Event Coordination (SEC) Form. Dibble will assist PUB and PUB ATCT in developing this form to be consistent with the construction phases and timelines.

Also, included in this effort is the coordination with FAA SSC for shutdown of the FAA-owned facilities (i.e., ILS, etc.).

- f) Airport Security Badging: members of the Engineering Team shall all attend the airport security and badging class at the Airport, submit the application, and pay the application fee required to obtain the airport security badge. It is anticipated that there will be a minimum to two (2) members of each company that will attend the class for a total of 8 people.

3) Construction Coordination and Inspection Services (Cost + Fixed Fee (CPFF)): it is assumed that the project will take 52 Calendar Days for substantial completion phase with an additional 7 Calendar Days for the Final Completion phase.

- a) Site Visits and Observations: the Senior Construction/Project Manager will provide periodic observation, and the Inspectors will perform full-time construction inspection on the project as identified below. It is anticipated that one Inspector will be used during daytime and nighttime operations each. Daily and nightly inspection reports will be developed.

Base Bid (Phases 1A and 1B) Site Visits: 21 calendar days and nights, each shift is 12 hours.

- Sr. Construction Manager or Engineering/Administrative Technician (3 days/week, 12 hours each day): 108 hours
- Construction Inspector – Daytime (7 days/week, 12-hour days): 252 hours
- Construction Inspector – Nighttime (7 days/week, 12-hour days): 252 hours

Base Bid (Phases 1C and 1D) Site Visits: 31 calendar nights, each shift is 10 hours.

- Sr. Construction Manager or Engineering/Administrative Technician (1 day/week, 10 hours each day): 40 hours
- Construction Inspector – Nighttime (10-hour days): 310 hours

Additive Alternate No. 1 (Schedules II): Phase 2A, 21 calendar days, concurrent with Phases 1A and 1B.

- Electrical Construction Inspector – see scope of work and hours in CR Engineers proposal.

Additive Alternate No. 2 (Schedules III): Phase 2B, 30 calendar days, concurrent with any phase.

- Electrical Construction Inspector – see scope of work and hours in CR Engineers proposal.

- b) Weekly Construction and Safety Meetings: prepare the weekly construction meeting agendas, facilitate the meetings, and issue meeting minutes. The Construction Manager, Construction Inspector, and Project Engineer will attend these weekly meetings to stay current on the construction activities. It is anticipated that there will be a maximum of 10 weekly construction meetings after the construction notice to proceed is issued.

- c) Weekly Certified Payroll and Davis Bacon Review: coordinate and review all certified payroll documentation required for this project to be compliant with the contract documents and Federal Davis Bacon Wage Determinations, (Contractor and subcontractors on a weekly basis). Included in this effort is also the submittal and coordination of classifications as needed for positions not specifically identified in the Federal Davis Bacon Wage Determinations.

- d) Contractor Employee Interviews: the construction inspector will perform these interviews in accordance the FAA requirements. Forms will be filled out and submitted showing contractor and subcontractor employees are aware of the Federal Davis Bacon Wage Determinations.
- e) Weekly FAA Reports (5370-1): develop the weekly FAA 5370-1 Construction progress reports and submit to the FAA.
- f) Weekly and Monthly Quantity Calculations: continuously monitor and track the construction material quantities throughout the course of the construction phase and provide weekly review summaries to the Airport and FAA. The Construction Inspector will assist with the tracking of quantities during the full-time inspection services.
- g) Monthly Payment Application Coordination and Review: regularly review and track project quantities in the field and on the Contractor's As-Builts. Coordinate these inspected quantities with the contractor prior to the submittal of monthly payment applications. Assist the Airport in the regular draw-down of the federal grant for payment on the construction services.
- h) Change Order Review and Coordination: coordinate and review Contractor Change Order Requests (COR), including verification of project quantities as needed, (estimated at a maximum of 3 COR's). A complete cost analysis will be prepared (as needed) for each change order that may occur.
- i) Material Shop Drawing Review and Coordination: review and provide a response to construction material and general project submittals as requested, estimated at approximately 35 original submittals. It will also be estimated that the Contractor will need to resubmit approx. 15 of the original submittals for a total amount of 50 submittal reviews during the course of the project.
- j) RFI Review and Coordination: coordinate, review and provide a response to construction and general project Requests for Information (RFI), (estimated at approximately 10 RFI's).
- k) ESI Review and Coordination: coordinate, review and develop necessary Engineering Supplemental Information (ESI) documents, additional details, or sketches as revisions to the construction specifications and/or plans, (estimated at approximately 6 ESI's). The electrical engineer will review and prepare the electrical ESI's in addition to the ones noted herein, estimated at approx. 4.
- l) DBE Compliance and Coordination: coordinate and review all DBE efforts and documentations required for this project to be compliant with the contract documents.
- m) QA/QC Testing Coordination and Review: coordinate and review QA/QC actions including scheduling of testing activities, reporting, review of results, and recommendations. The construction Inspector shall assist in the coordination and management of the QA/QC services.
- n) Substantial Completion Inspection: conduct the Substantial Completion Walks required before the opening of each phase. The Construction Inspectors (civil and electrical) shall also attend this meeting. A substantial completion walk will need to be performed for each construction phase identified herein (i.e., Phases 1A – 1D).

- o) Punchlist(s) and Coordination(s): prepare, submit, and re-evaluate punchlists at each substantial completion and final walk. A punchlist for each substantial completion walk will need to be developed for each construction phase identified herein (i.e., Phases 1A – 1D).

4) Post Construction Services (Lump Sum):

- a) Final Walk Inspection: conduct the Pre-Final and Final Completion walks for the construction project. The FAA, Airport, Resident Engineer, and Construction Inspectors (civil and electrical) shall all attend. A final completion walk will need to be performed for each construction phase identified herein (i.e., Phases 1A – 1D).
- b) Demobilization and Site Clean-Up: coordinate between the Airport and Contractor on the demobilization and site clean-up at the completion of the project. Dibble shall perform an Airport site visit to assure the contractor left the project site in satisfactory condition.
- c) Final Payment Application: coordinate the final inspected quantities with the contractor and coordinate prior to the submittal of final payment applications. We will assist the airport in the draw-down of the federal grant for payment on the construction services.
- d) QA and QC Testing Summary Report: prepare and submit to the Airport and FAA a final QA and QC summary report that includes all testing activities that occurred, all test results, and any corrective measures or actions that were taken for results that fell out of standard. This report shall be submitted to the FAA for review and approval prior to scheduling of the Final Inspection.
- e) Final Construction Report and Coordination: coordinate, prepare, and submit the Final Construction Report in accordance with the FAA Standard Handout for Final Reports 620-05 and as discussed with FAA at the February 9, 2023 scoping meeting. The final construction report will be formatted to include the applicable sections that are contained in the *Guide for Construction Final Report* contained in 620-05.
- f) Record Drawings: develop and submit Final Record Drawings based on Contractor redlines and field changes issued during construction, including RFI's/ESI's.
- g) Final As-Built Survey and Submittal to FAA AGIS Database: this item will include two separate efforts. First, perform the final As-Built Survey of the complete project, (including the removal of Taxiway A2), in accordance with FAA AC 150/5300-18.

Secondly, modify the data in preparation of submittal to the ADIP/AGIS system. Upon completion of the data development, upload the as-built survey data and files to the FAA AGIS system and coordinate with the FAA staff on reviews and acceptance of the data.

- h) ALP Update: amend and update the most recent (FAA Approved) ALP set to reflect the modifications made to the airport at the completion of the project, (i.e., removal of Taxiway A2). The following sheets are anticipated to be updated based on the current 2019 ALP set, at a minimum:
 - Sheet 4 – Airport Layout Plan (Existing)
 - Sheet 5 – Airport Layout Plan (Future)
 - Sheet 19 – Terminal Area (Existing)
 - Sheet 20 – Terminal Area (Future)
 - Sheet 23 – Exhibit A (Airport Property Map)

Once finalized, approved, and signed by the FAA and Airport, electronic and hard copies will be returned to the FAA and Airport as requested.

- i) Airport Diagram Update: assist the Airport with the update to the Airport Diagram. The update shall include the removal of Taxiway A2 components as well as other past projects that have not yet been updated.
- j) Airport Signage and Marking Plan Update: assist the Airport with the update to the Airport Signage and Marking Plans.
- k) Airport Flight Check: assist PUB with the development of the files needed for coordination with FAA Flight Check include the PAPI VGSi form and well as FAA reimbursable agreements forms. A flight check will be performed by the FAA for the Runway Lighting and Signage as well as re-commissioning of the PAPI's.

Miscellaneous Scope of Work Items

5) Project Deliverables:

- a) Final Construction Report: Electronic copies (PDF) will be provided to the FAA and PUB. The QA/QC Report will be an appendix to this report.
- b) Record Drawings: Electronic copies (PDF) will be provided to the FAA and PUB, (full and half-size).
- c) ALP Update: six (6) 24x36 copies will be provide to FAA for signature and then delivered to the stakeholders (i.e., FAA, PUB, etc.). Electronic copies (PDF) of the updated ALP set will be provided to the FAA and PUB.

6) Miscellaneous and Assumptions:

- a) Subconsultants:
 - 1. Final As-Built (AGIS) Survey – NorthStar Engineering and Surveying
 - 2. Geotechnical Quality Assurance Testing – Terracon
 - 3. Construction Inspection – Basis Partners (DBE)
 - 4. Electrical Construction Inspection – CR Engineers (DBE)
- b) The following number of trips are anticipated for the Bid Phase to cover all the meetings identified in this scope:
 - 1. Bid Phase – 2 Trips
 - i. Pre-Bid Meeting (2 staff members)
 - ii. Bid Opening and Review Meeting (1 staff)
- c) The following number of trips are anticipated for the Construction Phase:
 - 1. Preconstruction Phase – 2 Trips (Dibble and Basis Partners will attend in person, all other subconsultants will attend virtually).

2. Construction Coordination and Inspection Phase:

- i. Senior Project/Construction Manager or Engineering/Administrative Technician (Dibble): estimating 3 days a week, staying in Pueblo 2 nights each trip for Phases 1A and 1B, then 1 day each week for Phases 1C and 1D.
- ii. Construction Inspectors (Basis Partners): two inspectors, one working each day and night respectively, 7 days a week, staying in Pueblo each night.
- iii. Electrical Construction Inspection: reference scope of work provided by CR Engineers.
- iv. Direct costs including Lodging, Meals, and Mileage will be anticipated for each day/night that the inspector/resident engineer is on site. All applicable 2023 federal per diems, mileage rates, etc. will be applied.

3. Post Construction Phase – 2 Trips

7) Exclusions To This Scope of Work:

- a) Contractor's jobsite safety and compliance with all OSHA requirements are excluded (Contractor's responsibility).
- b) Construction staking and/or layout services.

Pueblo Memorial Airport
Rehabilitate Runway 8R-26L and
Taxiway A2 Removal
(Bid and Construction Phase Services)
FAA AIP No. 3-08-0046-048-2022 (RW & Elec)
FAA AIP No. 3-08-0046-049-2022 (ALCMS)
City of Pueblo Project No. TBD
APPENDIX B – FEE SCHEDULE

Please see below the Fee Schedule for the Rehabilitate Runway 8R-26L and Taxiway A2 Removal project:

A. Bid Phase Services:

1. Dibble (Civil).....	\$10,387.82
2. CR Engineers (Electrical – DBE).....	\$762.81
Subtotal.....	\$11,150.63

B. Pre-Construction Phase Services:

1. Dibble (Civil).....	\$26,506.12
2. CR Engineers (Electrical – DBE).....	\$762.81
Subtotal.....	\$27,268.93

C. Construction Coordination and Inspection Phase Services (Base Bid):

1. Dibble (Civil).....	\$125,393.80
2. Terracon (Geotechnical).....	\$152,081.20
3. CR Engineers (Electrical - DBE).....	\$7,811.14
4. Basis Partners (Inspection - DBE).....	\$196,155.00
Subtotal.....	\$481,441.14

D. Construction Coordination and Inspection Phase Services (Add Alt No. 1):

1. CR Engineers (Electrical – DBE).....	\$31,865.40
Subtotal.....	\$31,865.40

E. Construction Coordination and Inspection Phase Services (Add Alt No. 2):

1. CR Engineers (Electrical – DBE).....	\$12,244.75
Subtotal.....	\$12,244.75

F. Post Construction Phase Services:

1. Dibble (Civil).....	\$74,112.74
2. CR Engineers (Electrical – DBE).....	\$2,035.83
3. NorthStar Engineering and Survey (As-Built Survey).....	\$26,800.00
Subtotal.....	\$102,948.57

Runway 8R-26L Rehabilitation CA Total..... \$666,919.42

Pueblo Memorial Airport
**Rehabilitate Runway 8R-26L and
Taxiway A2 Removal
(Bid and Construction Phase Services)**

FAA AIP No. 3-08-0046-048-2022 (RW & Elec)

FAA AIP No. 3-08-0046-049-2022 (ALCMS)

City of Pueblo Project No. TBD

**APPENDIX C – IDENTIFICATION OF PERSONNEL,
SUBCONTRACTORS AND TASK RESPONSIBILITY**

Dibble (Prime Consultant):

Contact Information:

Jared Bass, P.E.

O: 303.872.5756

C: 805.815.2160

jared.bass@dibblecorp.com

Task/Responsibility:

- Senior Project/Construction Manager
- Overall Project/Construction Management
- Team Coordination during the Construction Phase (Airport, FAA, Contractor)
- Civil Record Drawings
- Project Close-Out files

CR Engineers, Inc. (Subconsultant):

Contact Information:

Catherine Alcorn, P.E.

O: 480.816.5541

calcorn@creng.com

Task/Responsibility:

- Electrical Inspections
- Electrical Record Drawings

NorthStar (Subconsultant):

Contact Information:

Michael L. Cuppy, P.E., P.L.S.
O: 719.544.6823
C: 719.248.8183
mcuppy@northstar-co.com

Task/Responsibility:

- As-Built Survey

Terracon (Subconsultant):

Contact Information:

Kirk D. Jackson, P.E.
O: 480.897.8200
Kirk.jackson@terracon.com

Task/Responsibility:

- Quality Assurance (QA) Materials Testing

Basis Partners (Subconsultant):

Contact Information:

Dino Bakkar, P.E. (Principal in Charge)
O: 719.733.3489
dino.bakker@terracon.com

Derek Phipps, P.E. (Project Manager)
O: 719.733.3492
derek.phipps@terracon.com

Task/Responsibility:

- Full-time Construction Inspection



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Barb Huber, Fire Chief

SUBJECT: AN ORDINANCE BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$201,869 TO PROJECT PS2203 FOR THE NURSE NAVIGATION PROGRAM

SUMMARY:

This Ordinance budgets and appropriates grant funds in the amount of \$201,869 for the nurse navigation program under the approved agreement between Access2Care LLC and the City of Pueblo.

PREVIOUS COUNCIL ACTION:

Ordinance 10463, dated May 22, 2023, approved an agreement between the City of Pueblo and Access2Care LLC for the nurse navigation program.

Ordinance 10150, dated March 28, 2022, approved an agreement between the City of Pueblo and Access2Care LLC for the nurse navigation program, established Project PS2203, and budgeted and appropriated \$201,869 for the project.

BACKGROUND:

This is a 2-year pilot program grant that is through the Colorado Division of Homeland Security. It will help connect the community to nurse navigation services rather than utilizing 9-1-1 and emergency rooms. Willing callers will be sent to a nurse's line after a thorough list of questions have identified an appropriate need. The long-term effect could be an improved use of connection to and use of medical resources as well as a reduction in 9-1-1 calls.

FINANCIAL IMPLICATIONS:

There is no cost to the city. Staff time will be required for project management, as well as grant monitoring and reporting

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

None.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Notice of Decision -NI911 2021

ORDINANCE NO.

AN ORDINANCE BUDGETING AND APPROPRIATING FUNDS
IN THE AMOUNT OF \$201,869 TO PROJECT PS2203 FOR THE
NURSE NAVIGATION PROGRAM

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

SECTION 1.

Grant funds in the amount of \$201,869.00 are hereby budgeted and appropriated into Project No. PS2203.

SECTION 2.

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 3.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

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

☐ Ordinance re-adopted on a vote of _____, on _____

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

President of City Council

ATTEST

City Clerk



To: NI911 (Nurses in 911) Stakeholders, Applicants, and Partners

From: Austin Geddis, Program Manager

Date: 12/14/2021

Re: Recipient selection

Competitive Funding Results

It is with great pleasure that we announce that the State of Colorado's Legislature allocated \$820,000 for the 2021 Nurses in 911 (NI911) Grant Program. Four local 911 answering points have been selected to receive funding as directed by SB21-156. Thank you to all of those who applied for the 2021 NI911.

Please do not be discouraged if you were not selected this year, as this is a pilot program created to provide the States Legislature with real data to inform future funding decisions, and possible future NI911 grant opportunities.

Recipient Selection

Aurora911	\$259,507.00
Frecom911 CRCA	\$162,709.00
Pueblo FD	\$201,869.00
Ute Pass Regional HSD	\$195,915.00

Decision Notification

This memorandum constitutes notification of an agency decision. Any request for reconsideration should be sent to: Austin.geddis@state.co.us by 12/20/2021. For more information, please visit: <https://www.colorado.gov/dhsem>



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Barb Huber, Fire Chief

SUBJECT: AN ORDINANCE APPROVING AND ACCEPTING A COLORADO RESOURCE FOR EMERGENCY AND TRAUMA EDUCATION (CREATE) GRANT ESTABLISHING PROJECT NO. PS2311 FOR EMERGENCY AND TRAUMA GRANT, AND BUDGETING AND APPROPRIATING GRANT FUNDS IN THE AMOUNT OF \$17,950, WHICH INCLUDES A FIFTY PERCENT COST MATCH OF \$17,950 FR THE PURPOSES AUTHORIZED BY THE GRANT AGREEMENT

SUMMARY:

Attached is a grant agreement between the City of Pueblo and the Colorado Resource for Emergency and Trauma Education, in the award amount of \$17,950. Grant funds will cover fifty percent of education costs for four Pueblo Fire Department employees.

PREVIOUS COUNCIL ACTION:

Approval of similar CREATE grant in 2018 and 2017.

BACKGROUND:

The purpose of the (CDHPE) CREATE grant is to provide funding, in the amount of \$17,950 directly to the City of Pueblo Fire Department in order to protect the health and safety of the public by enrolling four (4) Pueblo Fire Department employees in paramedic classes at Pueblo Community College (PCC). The City of Pueblo will be required to contribute a fifty percent match to Project No. PS2311 in the amount of \$17,950 from the Fire Department budget in the General Fund.

FINANCIAL IMPLICATIONS:

The anticipated total cost for the project is \$35,900. The Colorado Department of Public health and Environment (CDPHE) share for the CREATE Colorado Resource for Emergency and Trauma Education grant is \$17,950 and the fifty percent City match is \$17,950. Staff time will be required for project management, as well as grant monitoring

and reporting. The match will be transferred from the Fire Department's Budget in the General Fund.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

None.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. AWARD LETTER GRANT# 23-06-479

ORDINANCE NO.

AN ORDINANCE APPROVING AND ACCEPTING A COLORADO RESOURCE FOR EMERGENCY AND TRAUMA EDUCATION (CREATE) GRANT ESTABLISHING PROJECT NO. PS2311 FOR EMERGENCY AND TRAUMA GRANT, AND BUDGETING AND APPROPRIATING GRANT FUNDS IN THE AMOUNT OF \$17,950, WHICH INCLUDES A FIFTY PERCENT COST MATCH OF \$17,950 FR THE PURPOSES AUTHORIZED BY THE GRANT AGREEMENT

WHEREAS, the Colorado Department of Public Health and Environment has tendered a grant award to the City of Pueblo in the amount of \$17,950 and

WHEREAS, acceptance of the award is in the best interest of the City: NOW, THEREFORE,

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

SECTION 1.

The Colorado Department of Public Health and Environment grant in the amount of \$2,500 and Grant Agreement Articles, true copies of which are attached hereto, having been approved as to form by the City Attorney, are hereby approved and accepted.

SECTION 2.

Project No. PS2311 Colorado Resource for Emergency and Trauma Education grant is hereby established. The total project amount of \$17,950 is hereby budgeted and appropriated to Project No. PS2311 for expenditure for the purposes authorized by the grant agreement.

SECTION 3.

The required fifty percent match of \$17,950 will be transferred from the Fire Department's Budget in the General Fund to Project No. PS2311.

SECTION 4.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with intent of this Ordinance and the attached contract 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 _____.

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

CREATE

Colorado Resource for Emergency And Trauma Education

COLORADO
RURAL HEALTH
CENTER

The State Office of Rural Health



COLORADO
Health Facilities & Emergency
Medical Services Division
Department of Public Health & Environment

The CREATE program is managed by the Colorado Rural Health Center and funded by the Colorado Department of Public Health and Environment

7/24/2023

Grant #23-06-479

Pueblo Fire Department
Attn: Chris Obert
1551 Bonforte Blvd
Pueblo, CO 81001

Dear Chris,

Your application for the CREATE (Colorado Resource for Emergency and Trauma Education) grant has been reviewed by the Expert Review Committee (ERC). Congratulations, your application for Course #1-Paramedic has been approved for **\$17,950.00**.

Included in your approved funding are eligible expenses associated with COURSE COST. Excluded from your approved funding are BACKGROUND CHECK, DRUG SCREEN, and UNIFORMS. Eligible and ineligible expenses are listed in the grant guidelines, found on the [CREATE webpage](#).

Course 1 – Paramedic

\$ 8,975.00	Course Cost per student (max standard allowance)
X 4	Number of Students
\$35,900.00	Total Request Amount
X 50%	CREATE Match 50%
\$17,950.00	Total Amount Approved

Course 1 Report Due Date: 03/17/2025. Failure to submit a report on time may result in loss of funding.

In the event your course is cancelled, postponed, or the number of students is reduced from the original request, please notify CRHC as soon as possible so that the funds may be reallocated appropriately. Failure to do so may affect future funding.

The following are the items you agreed to as a part of this grant. They were included in the attestation part of your signed application.

1. The grantee shall use grant funds received under this grant to complete all aspects of its grant application, and shall not use such funds for purposes other than this.
2. Requirements for Training & Education Grants:
 - a. EMT, AEMT and Paramedic course participants must pass the National Registry of Emergency Medical Technicians (NREMT) exam within 90 days of class end date, in order

to request reimbursement from this grant program. For more information please see the Grant Guidelines.

3. Reporting Requirements:

- a. **CREATE Reimbursement Request Form:** Receipts showing full payment or copies of checks showing payment must be attached. (Form will be supplied to grantee by CRHC.)
- b. **CREATE Grant Travel Expense Form:** Requests for reimbursement for all travel expenses associated with the training or education program shall be made in accordance with the then current state of Colorado reimbursement rates for travel as specified in the Fiscal Rules of the State of Colorado. Documentation supporting all expenses must also be attached. (Form will be supplied to grantee by CRHC.)
- c. **Due Date:** Reports and billing shall be submitted within 30 days after completion of the training or course.
- d. **Publicity Items:** The grantee shall acknowledge the use of emergency medical and trauma services account grant funds in all public service announcements, program announcements, or any other printed material used for the purpose of promoting or advertising the training or educational program.
- e. **Evaluations:** For in-house trainings, the grantee shall develop and utilize a course evaluation tool to measure the effectiveness of that training or educational program. These results are required to be shared with the Instructor.
- f. **Student Attestation Form:** For any students not affiliated with the applicant agency, a student attestation must be included in the final report. (Form will be supplied by CRHC. Agencies may use their own form with prior approval from CRHC.)
- i. **Student Data Form:** At the end of each course, the grantee will confirm each student submitted the electronic student data form ([Student Data Form](#)) to CRHC.
- j. **National Registry:** Initial and refresher EMS provider course participants must pass the National Registry (NR) exam and submit a copy of the NR card with the reimbursement request.
- k. **College Expenditure Form:** All colleges must complete the "College Expenditure Form" in addition to the other items agreed to in the application attestation. (Form will be supplied to grantee by CRHC.)

The standard forms mentioned above are attached. All submitted forms (including student data forms) need to be legible and complete, otherwise reimbursement could be delayed. **In the event your course is cancelled, postponed, or the number of students is reduced from the original request, please notify CRHC as soon as possible so that the funds may be reallocated appropriately. Failure to do so may affect future funding.**

Scan all of the applicable reimbursement documents in the listed order (3a.-3i.) together as one [pdf document ONLY](#). Please submit by email to svose@coruralhealth.org .

DO NOT fax or mail the reimbursement documents

If you have any questions or are interested in the comments given by the ERC during your scoring process, you are welcome to contact Stephanie Vose by email svose@coruralhealth.org or phone 214-578-4381.



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 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 TRANSFERRING \$10,000 FROM ACCOUNT PROJECT CI2204, STREET REHABILITATION TO CI2205, FIRE 3 STATIONS - ARCH/DESIGN TO FUND ADDITIONAL DESIGN EFFORT FOR THE EXTENSION OF A WATER MAIN IN JERRY MURPHY ROAD, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$10,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance transfers funds in the amount of \$10,000.00 from account project CI2204 to CI2205 - Fire 3 Stations - Arch/Design Project, and budgets and appropriates funds totaling \$10,000.00 for the Project.

PREVIOUS COUNCIL ACTION:

Ordinance 10110, dated February 14, 2022, established Fire Station 6, 8, and 11 Project, account Project CI2205, transferred \$600,000.00 from the unappropriated fund balance of the general fund, and budgeted and appropriated \$600,000.00.

Ordinance 10188, dated June 13, 2022, transferred \$609,245.00 from the unappropriated fund balance of the general fund, and budgeted and appropriated \$609,245.00.

Ordinance, 10202, dated June 27, 2022, transferred \$270,000.00 from the "2022" unappropriated fund balance of the general fund, and budgeted and appropriated \$270,000.00.

Resolution 14938, dated July 11, 2022, awarded an agreement for Professional Design Services to Allred and Associates for Design and Engineering services of new Fire Stations 6, 8, and 11.

Resolution 14921, dated June 27, 2022, awarded an agreement for Professional

Services to Dunakilly Management Group Corporation for project representation, design review support, and construction inspection services for new Fire Stations 6, 8, and 11.

BACKGROUND:

This project is part of infrastructure and response improvements for the City of Pueblo and its Fire Departments, relocating Fire Stations 1, 6, and 8, and building a new Fire Station 11.

NorthStar Engineering and Surveying, Inc., was contracted by the City of Pueblo to provide subdivision services for Fire Station 8. During the design of Fire Station 8, the Board of Water Works noted a requirement to extend the water main on Jerry Murphy from Blue Stem to Candytuft. This Ordinance transfers \$10,000.00 from account Project CI2204 - Street Rehabilitation.

FINANCIAL IMPLICATIONS:

The funds in the amount of \$10,000.00 are being transferred from the account Project CI2204 to CI2205.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

The design of the water main could not be accomplished without the funds from CI2204.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE TRANSFERRING \$10,000 FROM ACCOUNT PROJECT CI2204, STREET REHABILITATION TO CI2205, FIRE 3 STATIONS - ARCH/DESIGN TO FUND ADDITIONAL DESIGN EFFORT FOR THE EXTENSION OF A WATER MAIN IN JERRY MURPHY ROAD, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$10,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, the Ordinance is necessary to transfer funds to complete the design of the water main extension on Jerry Murphy; NOW, THEREFORE,

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

SECTION 1.

Funds in the amount of \$10,000.00 are hereby transferred from account Project CI2204, Street Rehabilitation into account Project CI2205, Fire 3 Stations - Arch/Design Project, and budgeted and appropriated account Project CI2205.

SECTION 2.

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

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 July 24, 2023.

Final adoption of Ordinance by City Council on August 14, 2023.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE APPROVING A DEPOSIT AGREEMENT BETWEEN PIONEER WEST HOMES, LLC., A COLORADO LIMITED LIABILITY COMPANY, AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, RELATING TO THE COLLECTION OF A DEPOSIT FOR THE INSTALLATION OF PUBLIC IMPROVEMENTS ASSOCIATED WITH THE PROPERTY AT 55 ABERDEEN BLUFF, AUTHORIZING EXECUTION OF SAID AGREEMENT BY THE MAYOR, AND PROVIDING PROCEDURES FOR RETURN OF THE DEPOSIT AND PREVIOUSLY COLLECTED LOT FEES AFTER INSTALLATION AND ACCEPTANCE OF THE REQUIRED PUBLIC IMPROVEMENTS IS COMPLETED

SUMMARY:

Attached is an Ordinance approving the establishment of a deposit account and approving a Deposit Agreement between Pioneer West Homes, LLC., and the City of Pueblo related to the collection of a deposit and the disposition of previously-collected lot fees within the Aberdeen Bluffs Subdivision for the construction of certain required public improvements. The proposed Ordinance also authorizes the Mayor to execute the agreement on behalf of the City of Pueblo.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The original developer of the Aberdeen Bluffs subdivision began constructing in 1998. That developer built several homes, but was ultimately unable to complete the construction of all required improvements within the subdivision and sold its ownership interest in the property to several new property owners, including Pioneer West Homes, LLC. Between 2017 and 2020, Pioneer West Homes constructed and sold several homes to individual homebuyers. Because there were remaining unfinished public

improvements within the subdivision, the developer agreed to pay a per-lot fee that would be used for the purpose of constructing those remaining public improvements. The payment of these fees was based on a verbal agreement that was never subsequently codified in writing or approved by Ordinance. In total, Pioneer West deposited lot fees in a total amount of \$16,310.00 between 2017 and 2019.

As construction in the subdivision was progressing, a rain event caused flooding behind some of the homes on Aberdeen Bluff. A post-storm investigation determined that a required drainage pan that conveyed stormwater from several of those properties had not been installed, leading to the observed drainage issues. At that time, the City issued notice to property owners that no additional building permits or certificates of occupancy would be issued within the subdivision until the required drainage improvements were installed. When the City of Pueblo gave this notice, the home located at 55 Aberdeen Bluff was already under construction. Pioneer West Homes completed construction on the house in 2020, but has been unable to obtain a CO since the required stormwater improvements were not constructed. Within the past year, Pioneer West Homes has received approval for the design of a storm drainage channel that will serve the affected properties and mitigate the flooding issues observed in previous rain storms. The cost to design and install those improvements was estimated by the City at \$75,000.00.

Pioneer West has identified a buyer and has requested the issuance of a Certificate of Occupancy for the property at 55 Aberdeen Bluff. Pioneer West has agreed to deposit a total of \$75,000.00 (including the previously-collected lot fees) as a guarantee that the required improvements will be constructed in exchange for the City allowing the issuance of the CO for the property to facilitate the sale of the property.

FINANCIAL IMPLICATIONS

According to the terms of the proposed Ordinance and Deposit Agreement, the City will waive the prohibition on the issuance of a certificate of occupancy once the full amount of the deposit is received. Pioneer West will construct the required drainage improvements and, upon acceptance by the City, the City will refund the deposit and the previously-collected lot fees (in Deposit Account No. D6704) in a total amount not to exceed \$75,000.00.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Failing to approve this Ordinance will prevent the City from being able to enter into the Deposit Agreement and to refund Pioneer West's deposit and previously-collected lot fees once the required public improvements are installed.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Deposit Agreement - Aberdeen Bluff Sub (Pioneer West) - 230801 (final)

ORDINANCE NO.

AN ORDINANCE APPROVING A DEPOSIT AGREEMENT BETWEEN PIONEER WEST HOMES, LLC., A COLORADO LIMITED LIABILITY COMPANY, AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, RELATING TO THE COLLECTION OF A DEPOSIT FOR THE INSTALLATION OF PUBLIC IMPROVEMENTS ASSOCIATED WITH THE PROPERTY AT 55 ABERDEEN BLUFF, AUTHORIZING EXECUTION OF SAID AGREEMENT BY THE MAYOR, AND PROVIDING PROCEDURES FOR RETURN OF THE DEPOSIT AND PREVIOUSLY COLLECTED LOT FEES AFTER INSTALLATION AND ACCEPTANCE OF THE REQUIRED PUBLIC IMPROVEMENTS IS COMPLETED

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

SECTION 1.

The Deposit Agreement ("Agreement") by and between Pioneer West Homes, LLC., a Colorado Limited Liability Company, and the City of Pueblo, a Colorado Municipal Corporation, a copy of which is attached hereto and made a part hereof by reference, after having been approved as to form by the Pueblo City Attorney, is hereby approved. The Mayor is hereby authorized to execute the Agreement for and on behalf of the City Pueblo and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 2.

Upon the installation of the required public improvements specified in Exhibit "B" of the Agreement, and the City's acceptance thereof, Pioneer West Homes, LLC., may submit a written request to the Director of Public Works for the refund of previously-collected lot fees currently held in Deposit Account No. D6704 - Aberdeen Bluffs Lot Fees, in an amount not to exceed \$16,310.00. The Director of Public Works shall review, endorse, and forward the request to the Director of Finance, who shall be authorized to refund the lot fees after receipt of the endorsed request from the Director of Public Works. The refund of the lot fees as described within this Section 2 is separate from and in addition to the refund of any other deposits collected pursuant to the Agreement approved in Section 1 of this Ordinance. The total amount of lot fees and deposits that may be refunded to Pioneer West Homes, LLC., shall not exceed \$75,000.00.

SECTION 3.

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

SECTION 4.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

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

☐ Ordinance re-adopted on a vote of _____, on _____

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

President of City Council

ATTEST

City Clerk

DEPOSIT AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 2023 by and between the CITY OF PUEBLO, a Municipal Corporation, hereinafter referred to as “City”, and PIONEER WEST HOMES, LLC, a Colorado limited liability company, hereinafter referred to as “Pioneer West”.

W I T N E S S E T H:

WHEREAS, Pioneer West is the owner and or developer of the property commonly known as 55 Aberdeen Bluff, City of Pueblo, County of Pueblo, (hereinafter referred to as the “Property”) located within the Aberdeen Bluff Subdivision, Second Filing and legally described as set forth in Exhibit “A”, which is attached hereto and incorporated herein; and

WHEREAS, Pioneer West is required, pursuant to Section 12-4-7(j) of the Code of Ordinances of the City, to construct certain public improvements including those set forth in Exhibit “B”, which is attached hereto and incorporated herein; and

WHEREAS, Pioneer West’s predecessor-in-interest, P.I.C Properties, and City entered into a Subdivision Improvements Agreement dated March 5, 1997 (hereinafter referred to as the “SIA”) which requires Pioneer West to construct and install at its sole cost all required public improvements within a specified timeframe; and

WHEREAS, Paragraph 2 of the SIA requires that Pioneer West or any subsequent owners of the land or any portion thereof shall deposit cash or other collateral if said improvements are not installed within the specified timeframe; and

WHEREAS, Pioneer West has entered into contracts for the sale of its ownership within the Subdivision and is requesting that the City issue a Certificate of Occupancy (“CO”) to allow transfer of ownership of the Property to a new owner prior to the installation of the public improvements listed in Exhibit “B”; and

WHEREAS, Pioneer West desires to provide a cash deposit in accordance with Paragraph 2 of the SIA as collateral for the installation of the public improvements specified in Exhibit “B”; and

WHEREAS, the Pioneer West agrees that the estimate of the City Director of Public

Works to construct and install improvements necessary to satisfy Paragraph 2 of the SIA with respect to the Property is reasonable; and

WHEREAS, Pioneer West agrees to establish a Deposit Account with the City to guarantee payment of the costs of installation and construction of said public improvements according to City's Subdivision Regulations and the SIA; and

WHEREAS, the City has collected and deposited lot fees in the amount of \$16,310.00 into Deposit Account No. D6704, Aberdeen Bluffs Lot Fees, for the purpose of installing required public improvements within the subdivision, all of which were paid by Pioneer West Homes; and

WHEREAS, the City agrees that application of the collected lot fees to the cost of installing required public improvements contemplated herein is appropriate and consistent with the purpose for which the fees were originally collected;

NOW THEREFORE, in consideration of the foregoing in consideration of the foregoing and mutual covenants contained herein, the City and Pioneer West agree as follows:

I. Pioneer West agrees:

1. To deposit with the City Director of Finance \$58,690.00 being an amount that together with other funds on deposit with the City equal to the estimate of the public improvements necessary to satisfy Paragraph 2 of the SIA with respect to the Properties owned and/or developed by Pioneer West and the City Subdivision Regulations. Such estimate and improvements are set forth in Exhibit "B", which is attached hereto and incorporated herein.
2. To install the required public improvements in said Subdivision as described in Exhibit "B".
3. That the funds deposited by Pioneer West shall be deposited with the City's Director of Finance by wire transfer and received prior to the day of closing of the sale of the Property and held by the City in a non-interest bearing Deposit Account to be established by the Director of Finance who may disburse said funds only as

herein provided. The Director of Finance shall release from said Deposit Account and pay out therefrom only such deposited funds as directed in writing by the Director of Public Works and that funds deposited with the Director of Finance may be withdrawn at the discretion of the Director of Public Works upon written request to the Director of Finance.

4. When Pioneer West completes the improvements described in Exhibit “B”, Pioneer West may apply to the City for a release of the deposited funds for work installed and accepted. Upon written notice of the City’s Director of Public Works to the Director of Finance, the Director of Finance shall release said funds to Pioneer West as directed by the Director of Public Works.
5. In the event that Pioneer West fails to install all or any part of the required public improvements described in Exhibit “B” within six months from the date of the issuance of the CO for the Property, the Director of Public Works may withdraw deposited funds to complete all or any part of the said improvements.

II. The City agrees:

6. Subject to and conditioned upon Pioneer West depositing \$58,690.00 with the City’s Director of Finance by wire transfer prior to the date of closing of the sale of the property at 55 Aberdeen Bluff to the prospective new owner, City waives any prohibition to issuance of the Certificate of Occupancy under the Subdivision Improvement Agreement and shall confirm such waiver and approval by City of issuance of the Certificate of Occupancy to the Pueblo Regional Building Department.
7. To have the Director of Public Works or his designee periodically inspect said improvements while under construction and inspect completed improvements within a reasonable time after receiving written notice that the improvement has been completed. The Director of Public Works shall notify Pioneer West within 10 days after inspection of the required public improvements if the same are satisfactorily

completed and approved by the City and if so satisfactorily completed and approved, the Director of Public Works shall authorize a partial release and payment of said escrowed funds and previously collected lot fees held in Deposit Account D6704, Aberdeen Bluffs Lot Fees, to be made to Pioneer West in an amount determined by the Director of Public Works based on the percentage of improvements completed and approved. In no case shall the total amount of funds returned to Pioneer West exceed \$75,000.00, an amount being equal to the sum of prior lot fees collected and currently on deposit with the City in Deposit Account No. D6704, Aberdeen Bluffs Lot Fees, plus the amount of additional deposits received from Pioneer West in accordance with Paragraph 1 of this Agreement.

III. The City and Pioneer West agree:

8. That this Agreement shall be binding upon Pioneer West, its heirs, successors, and assigns.
9. That this Deposit Agreement shall constitute full satisfaction of the covenants set forth in Paragraph 2 of the Subdivision Improvement Agreement with respect to the Property only. Nothing contained herein is intended to be, relied upon or otherwise act as an amendment of the Subdivision Improvement Agreement or a release of any other obligations contained therein.

SIGNATURE PAGE FOLLOWS

CITY OF PUEBLO

By: _____

Nicholas A. Gradisar, Mayor

Subscribed and sworn to before me this _____ day of _____, 2023.

My commission expires: _____

Notary Public

PIONEER WEST HOMES, LLC

By: _____

Kristi L. Grabill, Managing Member

Subscribed and sworn to before me this _____ day of _____, 2023.

My commission expires: _____

Notary Public

EXHIBIT “A” – LEGAL DESCRIPTION

Parcel F Rearrangement of Property Boundaries LL-18-01, formerly no. 05-352-23-051 and 05-352-23-052.

EXHIBIT “B” – PUBLIC IMPROVEMENTS

Pioneer West shall deposit funds with the City’s Director of Finance in the amount of \$58,690.00 which, in addition to funds already on deposit in the amount of \$16,310.00 shall serve as Pioneer West’s guarantee of the completion of the public improvements listed below:

Description	Estimated Cost
Relocate utilities	\$5,000.00
Construct 48” concrete storm drainage channel	\$65,000.00
Restore landscaping	\$5,000.00
TOTAL ESTIMATED COST	\$75,000.00
FUNDS ALREADY ON DEPOSIT	\$16,310.00
ADDITIONAL PIONEER WEST DEPOSIT REQUIRED	\$58,690.00



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 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 2511 EAST 4TH STREET AND THREE PARCELS LOCATED NORTH OF 2511 EAST 4TH STREET FROM B-4, R-2, AND S-4 TO BP, BUSINESS PARK ZONE DISTRICT

SUMMARY:

The applicant is requesting to rezone the parcel addressed 2511 East 4th Street and the three parcels located north of 2511 East 4th Street, from B-4, R-2, and S-4 to BP, Business Park District to facilitate Summit Brick's new stone veneer manufacturing business.

PREVIOUS COUNCIL ACTION:

The applicant is concurrently requesting a rearrangement of property boundaries at 2511 East 4th Street to combine the three parcels north of this address (RPB-22-15).

BACKGROUND:

The rezoning site was originally developed in Pueblo County and was annexed into the City in 1966. Previous use of the site consisted of Donaldson Custom Auto and Cycle, which was an automotive and motorcycle repair shop. Summit Brick purchased the existing structure and three parcels to the north to establish a new stone veneer manufacturing business. The applicant intends to reuse the existing metal structure for the stone veneer manufacturing process and to store the finished materials in the unimproved land located north of the structure. According to the applicant, the proposed manufacturing use is not anticipated to create noise that will be audible from the properties located north and east of the site. Some noise may stem from equipment traffic and the moving of product in the outdoor storage area located north of the manufacturing building. Hours of operation for both the manufacturing and the movement of product will be limited to Monday through Friday from 7:00 a.m. to 5:00 p.m. and possibly on Saturday between 8:00 a.m. and 12:00 p.m. Manufacturing and

production as well as outdoor storage are permitted uses in the BP Zone District. However, the BP Zone District requires a minimum lot area of 20,000 square feet. Because of this, the applicant is also requesting a Rearrangement of Property Boundaries to combine the three parcels north of 2511 East 4th Street into one lot to meet the minimum size requirements for the proposed zone district. The BP Zone District also requires a 100-foot distance between a structure in a BP from an existing residential zone district. The existing metal structure is approximately 66-feet from a R-2, Single-Family Zone District located to the northeast. The applicant was granted a variance by the City Zoning Board of Appeals on April 25, 2023 for a variance from the 100-foot distance requirement. Previous use of the property was commercial/industrial in nature. All proposed manufacturing uses will be enclosed within the building and the storage yard to the north must be screened according to Section 17-4-5, (4), 9., of the Pueblo Municipal Code.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their March 8, 2023 Regular Meeting, voted 6-0 to recommend approval, (Commissioner Martinez absent) with the following conditions:

1. Eastwood Subdivision, Rearrangement of Property Boundaries, RPB-22-15 must be approved and recorded prior to City Council review and approval of the rezoning request.
2. The applicant must receive a variance from the 100-foot distance requirement for a structure in a BP Zone District to a residential zone district prior to City Council review and approval.

STAKEHOLDER PROCESS:

The Planning Department sent out Notice of the Planning and Zoning Commission Public Hearing to all property owners located within 300 feet of the subject property.

A Public Notice poster was placed on the subject property 15 days prior to the Public Hearing.

ALTERNATIVES:

Upon request of City Council, the Ordinance could be returned to the Planning and Zoning Commission for consideration of proposed modifications.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Z-22-22 Attachments

ORDINANCE NO.

AN ORDINANCE AMENDING ZONING RESTRICTIONS TO
REZONE 2511 EAST 4TH STREET AND THREE PARCELS
LOCATED NORTH OF 2511 EAST 4TH STREET FROM B-4, R-2,
AND S-4 TO BP, BUSINESS PARK 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 B-4, R-2, and S-4 to BP, Business Park Zone District:

Commencing at the Southwest corner of Eastwood Subdivision, easterly along the southerly line of said Eastwood Subdivision a distance of 103.4 feet to the Southeast corner of parcel of land as described in Bk. 1237, Pg. 520 and the POINT OF BEGINNING;

THENCE continuing easterly along the southerly line of said Eastwood Subdivision, a distance of 56.6 feet to the westerly right-of-way line of Dry Creek Street as described in Bk. 1457, Pg. 563; THENCE Northerly along said westerly right of way line, a distance of 225 more or less to an angle point in Dry Creek Street; THENCE continuing Northerly along the centerline of Dry Creek Street, a distance of 150.00 to the easterly extension of the north line of Lot 1, Eastwood Subdivision RPB 22-15; THENCE Westerly along said North line and extension thereof, a distance of 160.00 feet to the Westerly line of Eastwood Subdivision; THENCE Southerly along said Westerly line, a distance of 255' to the Northwest corner of that parcel of land as described in Bk. 1241, Pg. 121; THENCE Southeasterly along the Northerly and Easterly line of said Bk. 1241, Pg. 121 and the Easterly line of that parcel of land as described in Bk. 1237, Pg. 520 to the POINT OF BEGINNING.

The above requested BP zoning contains 51,889 ft² (1.19 acre) 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 _____.

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.

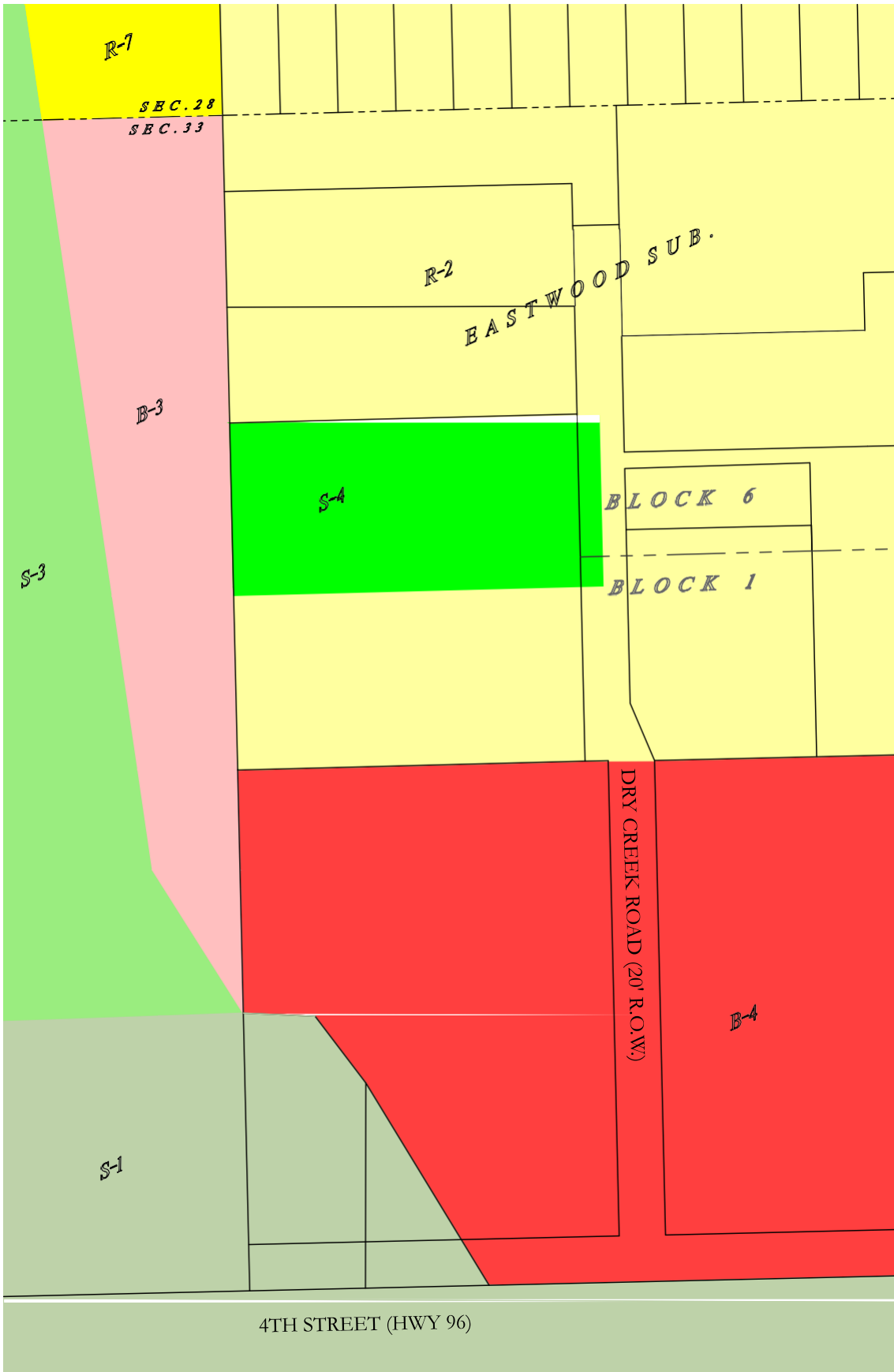
President of City Council

ATTEST

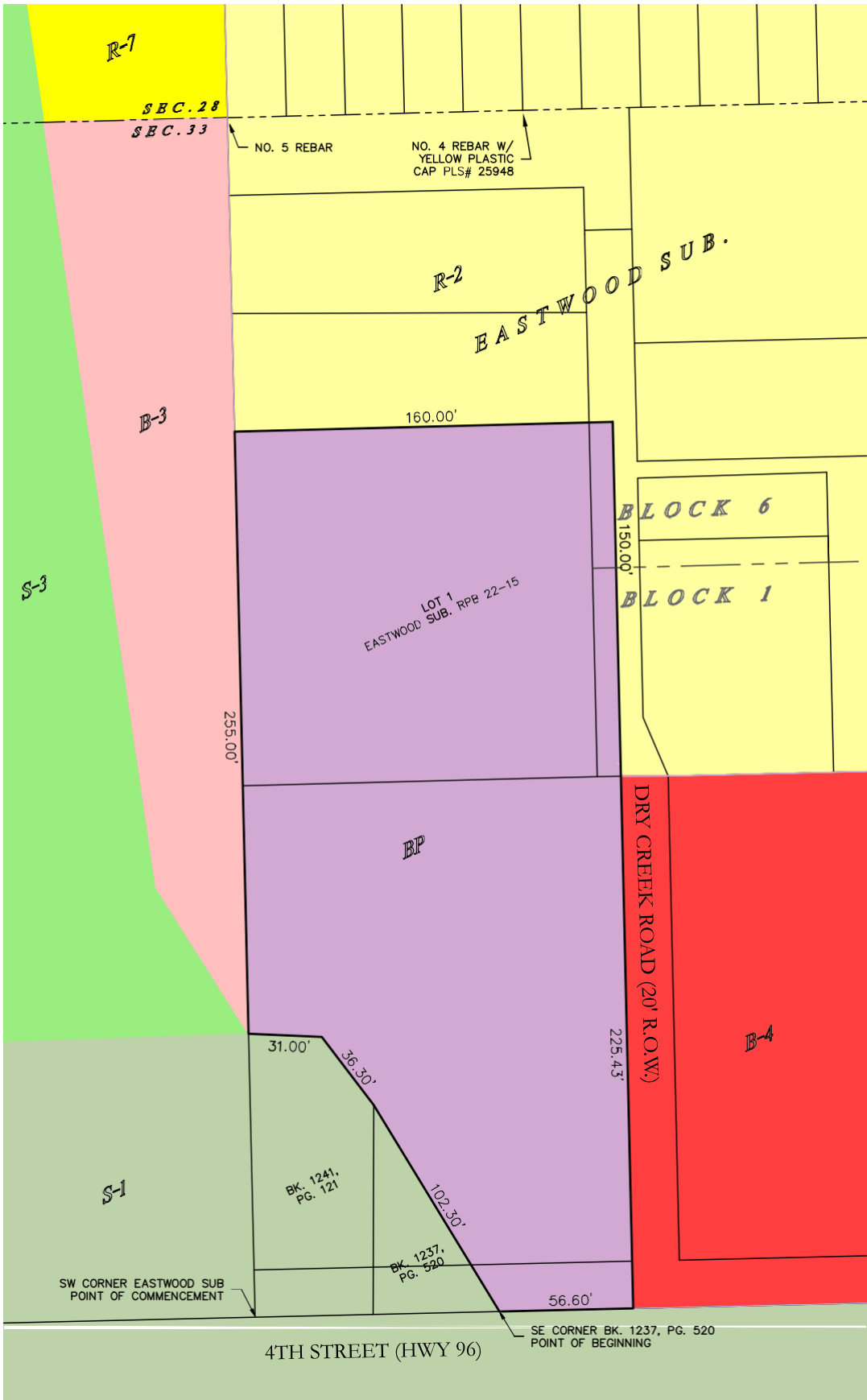
City Clerk

ZONE CHANGE

of a portion of Block 1 and Block 6,
Eastwood Subdivision
In Section 33, Township 20 South,
Range 64 West of the 6th P.M. in
Pueblo County, Colorado



EXISTING ZONING



REQUESTED ZONING

APPLICANT HEREBY REQUESTS: That the existing various zonings be changed to Business Park (BP) as shown and described hereon, to wit:

Commencing at the Southwest corner of Eastwood Subdivision, easterly along the southerly line of said Eastwood Subdivision a distance of 103.4 feet to the Southeast corner of parcel of land as described in Bk. 1237, Pg. 520 and the POINT OF BEGINNING;

THENCE continuing easterly along the southerly line of said Eastwood Subdivision, a distance of 56.6 feet to the westerly right-of-way line of Dry Creek Street as described in Bk. 1457, Pg. 563; THENCE Northerly along said westerly right of way line, a distance of 225 more or less to an angle point in Dry Creek Street; THENCE continuing Northerly along the centerline of Dry Creek Street, a distance of 150.00 to the easterly extension of the north line of Lot 1, Eastwood Subdivision RPB 22-15; THENCE Westerly along said North line and extension thereof, a distance of 160.00 feet to the Westerly line of Eastwood Subdivision; THENCE Southerly along said Westerly line, a distance of 255' to the Northwest corner of that parcel of land as described in Bk. 1241, Pg. 121; THENCE Southeasterly along the Northerly and Easterly line of said Bk. 1241, Pg. 121 and the Easterly line of that parcel of land as described in Bk. 1237, Pg. 520 to the POINT OF BEGINNING.

The above requested BP zoning contains 51,889 ft² (1.19 acre) more or less.

APPROVAL

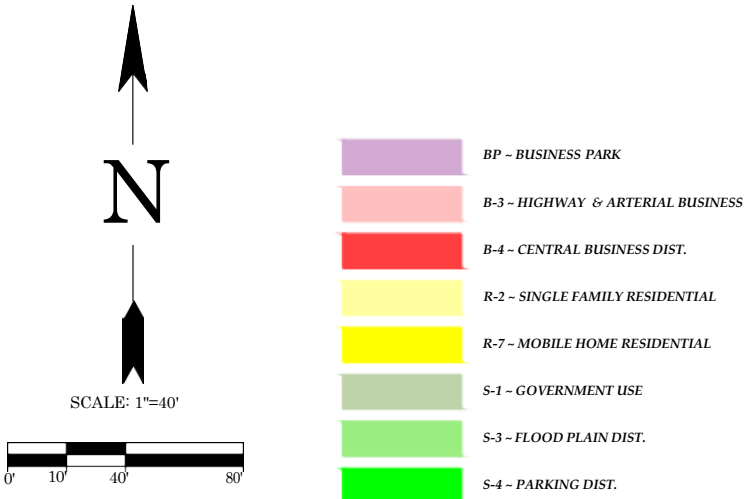
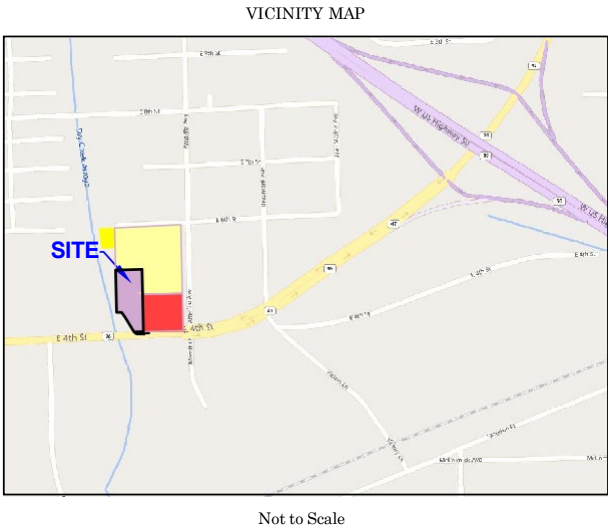
By: _____
Department of Planning & Community Development

By: _____
Director of Public Works

APPROVAL ATTESTED BY:

By: _____
Administrative Official

Date: _____



- BP - BUSINESS PARK
- B-3 - HIGHWAY & ARTERIAL BUSINESS
- B-4 - CENTRAL BUSINESS DIST.
- R-2 - SINGLE FAMILY RESIDENTIAL
- R-7 - MOBILE HOME RESIDENTIAL
- S-1 - GOVERNMENT USE
- S-3 - FLOOD PLAIN DIST.
- S-4 - PARKING DIST.

Notice:
According to Colorado Law, you must commence any legal action based upon any defect in this survey within three (3) years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten (10) years from the date of certification shown hereon.

Title work provided by Land Title Guarantee Company, Old Republic National title Insurance Company, File No. PBC35059765-2, bearing an effective date of January 23, 2023 at 5:00 P.M.

Distances shown hereon are ground distances of the Colorado State Plane Coordinate System, South Zone, NAD83 US Ft. and utilize a combination scale factor of 1.0002466318.

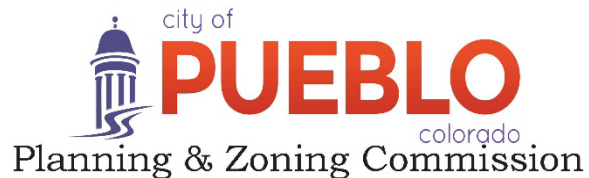
The area being affected by this REZONE REQUEST is 1.19 Ac. ±.

Colorado Land Surveyors, Inc.
184 S. Tiffany Dr., Ste. 106
Pueblo West, CO 81007
719-542-9169

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative



Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

MINUTES OF REGULAR MEETING

City of Pueblo, Colorado

Wednesday, March 8, 2023 – 3:30 p.m.

City Council Chambers, 1 City Hall Place

Join Zoom Meeting online:

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

Join Zoom Meeting by phone:

+1 669 900 6833 US (San Jose)

+1 346 248 7799 US (Houston)

Online and phone Meeting ID and Password:

Meeting ID: 927 1786 7722

Passcode: 195462

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

MEETING CALLED TO ORDER

The meeting was called to order at 3:32 p.m. with Commissioner Castellucci presiding.

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

Commissioners Absent: Sarah Martinez

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

REGULAR AGENDA:

Public Hearing:

1. Z-22-22 Rezone: 2511 E. 4th St., approximately 1.08 acres to be rezoned from S-4, R-2 and B-4, to B-P, Business Park. Generally located north of E. 4th Street and west of Dry Creek Road.

Discussion: Principal Planner Beritt Odom provided Staff Report.

Public Hearing: Applicant and property owner Matthew Welte, President and CEO Summit Brick, was sworn in and testified in favor of the application.

- Laura Defalco, neighbor, was sworn in and inquired about additional traffic and dust from the proposed stone veneer manufacturing.
- Applicant, Matthew Welte, indicated that all traffic will enter through the southern portion of the site where the existing building is located and no additional traffic or dust is anticipated.

Commission Action: Bailey moved to approve the Rezone, seconded by Avalos with Staff Conditions 1 and 2.

Motion Passed: 6 - 0. Martinez Absent

Z-22-22

TO: City of Pueblo, Planning and Zoning Commission

FROM: Beritt Odom, Principal Planner

THROUGH: Scott Hobson, Acting Director of Planning and Community Development

DATE: March 8, 2023

SUBJECT: Rezone from S-4, R-2, and B-4 to BP, Business Park District

APPLICANT: Matt Welte, Brick Solid Investments, LLC

PROPERTY OWNER: Brick Solid Investments, LLC

LOCATION: 2511 E. 4th Street

CONCURRENT REQUEST(S): RPB-22-15, 2511 E. 4th Street

REQUEST:

The applicant is requesting to rezone the parcel, developed with a metal structure, and addressed 2511 E. 4th Street, and the three parcels, located north of 2511 E. 4th Street, from B-4, R-2, and S-4, to BP, Business Park to facilitate Summit Brick's new stone veneer manufacturing business.

BACKGROUND AND ANALYSIS:

The rezoning site was originally developed in Pueblo County and was annexed into the City in 1966. Previous use of the site consisted of Donaldson Custom Auto and Cycle, which was an automotive and motorcycle repair shop. Summit Brick purchased the existing structure and three parcels to the north to establish a new stone veneer manufacturing business. The applicant intends to reuse the existing metal structure for the stone veneer manufacturing process and to store the finished materials in the unimproved land located north of the structure. According to the applicant, the proposed manufacturing use is not anticipated to create noise that will be audible from the properties located north and east of the site. Some noise may stem from equipment traffic and the moving of product in the outdoor storage area located north of the manufacturing building. Hours of operation for both the manufacturing and the movement of product will be limited to Monday through Friday from 7:00 a.m. to 5:00 p.m. and possibly on Saturday between 8:00 a.m. and 12:00 p.m.

Manufacturing and production as well as outdoor storage are permitted uses in the B-P Zone District. However, the B-P Zone District requires a minimum lot area of 20,000 square feet. Because of this, the applicant is also requesting a Rearrangement of Property Boundaries to combine the three parcels north of 2511 E. 4th Street into one lot to meet the minimum size requirements for the proposed zone district. The BP Zone District also requires a 100-foot distance between a structure in a BP from an existing residential zone district. The existing metal structure is approximately 66-feet from a R-2, Single-Family Zone District located to the northeast. The applicant intends to apply for a variance from the 100-foot distance requirement. Previous use of the property was commercial/industrial in nature. All proposed manufacturing uses will be enclosed within the building and the storage yard to the north must be screened according to Section 17-4-5, (4), 9., of the Pueblo Municipal Code.

CHARACTER AND COMPATIBILITY WITH THE NEIGHBORHOOD:

Site Character: 2511 E. 4th Street is currently developed with a one story metal building, the three parcels to the north are unimproved and enclosed with a chain link fence. The property was originally subdivided and developed in Pueblo County, please refer to the legal description on the zoning exhibit.

Neighborhood Compatibility:	North	R-2, Single-Family Residential District, undeveloped
	East	R-2, Single-Family Residential District, developed with single-family residences.
		B-4, Central Business District, auto sales and towing.
	South	S-1, Government Use District, E. 4 th Street.
	West	S-3, Flood Plain District, Arroyo and drainage.

Comprehensive Plan:

The area proposed to be rezoned is designated as Commercial Mixed-Use by the “Pueblo Regional Comprehensive Plan, 2022.” According to the Comprehensive Plan, Commercial Mixed-Use land uses are generally located adjacent to I-25 and local highways to provide large-format retail and personal services. According to the plan a mix of commercial, employment, and service oriented uses that serve adjacent neighborhoods and the broader region are appropriate. Infill and redevelopment is encouraged to revitalize underutilized areas. The current surrounding neighborhood is an eclectic mix of some single-family homes to the north and east, Trinity Life Center Church to the south, multiple salvage yards to the southwest, a building supply business, and the City’s proposed East Side Fire Station to the southeast.

The proposed rezoning to facilitate the reuse of a vacant building for manufacturing and production of stone veneer is similar to the previous auto repair and autobody use, as well as the building supply company located southeast of the subject site.

ABILITY TO COMPLY WITH THE PROPOSED ZONE DISTRICT:

❑ **Minimum lot size and area:**

Minimum lot size in the BP is 20,000 square feet. The property addressed 2511 E. 4th Street is approximately 21,967 sq. ft., which meets the minimum size requirements for the BP Zone District. An application for a rearrangement of property boundaries, for the north three parcels, was submitted concurrent with the rezoning request and will combine the existing lots and parcels into one 22,500 square foot lot, meeting the minimum 20,000 square foot lot size. The rezoning will not be forwarded to City Council for review and approval until the rearrangement of property boundaries is complete and recorded.

❑ **Lot coverage:**

The B-P Zone District allows a maximum lot coverage of 50-percent. Existing lot coverage is 36-percent for 2511 E. 4th Street. According to the application, the three parcels to the north, which are currently being rearranged into one lot, will remain unimproved with zero percent lot coverage.

❑ **Zone District Performance Standards:**

The B-P 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:

1. Noise from industrial, commercial, or business activity shall comply with Section 11-1-607 of this Code applicable to light industrial zone districts, provided that if located within three hundred (300) feet of a residential zone district the industrial or business activity shall comply with Section 11-1-607 this Code applicable to commercial zones.

❑ 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.

❑ The proposed manufacturing facility must comply with all noise regulations, the applicants indicated that onsite operations would cease by 5:00 p.m. daily.

2. No vibrations resulting from any industrial, commercial, or business activity shall be measurable at the outer boundaries of the lot.

❑ The proposed manufacturing facility must not produce vibrations.

3. No odors resulting from any industrial, commercial, or business activity shall be discernible at the outer boundaries of the lot.

❑ The proposed manufacturing facility must not emit discernible odors.

4. No observable smoke shall be emitted from the parcel.
 - ❑ The proposed manufacturing facility must not produce observable smoke.
5. No dust or dirt resulting from any industrial, commercial, or business activity shall be discernible beyond the outer boundaries of the lot.
 - ❑ The proposed site must be developed to prevent dust and dirt from being discernible beyond the property lines.
6. No noxious gases resulting from any industrial, commercial, 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.
7. No glare or heat generated from any industrial, commercial, or business activity shall be discernible beyond the outer boundaries of the lot.
 - ❑ The manufacturing facility shall not generate heat or glare.
8. No use that would cause interference with or disrupt utility service including, without limitation, electrical, cable, television, or telecommunications services to surrounding properties shall be allowed.
 - ❑ The manufacturing facility shall not disrupt utility service.
9. Outside storage of debris, rubbish, materials, supplies and equipment shall be enclosed on all sides by a screening wall or solid fence at least six (6) feet, but no more than ten (10) feet, in height. Neither debris, rubbish, materials, supplies nor equipment shall be stacked or stored to a height exceeding the height of the screening wall or fence.
 - ❑ The manufacturing facility shall comply with outdoor storage standards.

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 manufacturing use may be interpreted as furthering the goal of promoting redevelopment of an existing industrial site.
- 2) Show that the area has changed significantly since the adoption of the comprehensive land use plan
 - Not Applicable
- 3) Show that there was a mistake or error made in the original zoning of the property.
 - Not Applicable

APPLICATION REQUIREMENT PER §17-6-1 OF THE PUEBLO MUNICIPAL CODE

The applicant's name and address and the name and address of any person, firm or corporation represented by such applicant in the application.

- The application contains the required information.

The interest of the applicant and the interest of the person, firm or corporation represented by the applicant, be it legal, sales development, operation, or other interest

- The application contains the required information

The nature of the amendment and a legal description of the property that would be affected by the amendment.

- The application contains the required information

The nature of the amendment and a legal description of the property that would be affected by the amendment.

- The application contains the required information

A statement of the facts which the applicant believes justify the amendment:

- According to the applicant, the “Business Park zoning will conform with the previous use of the property as Donaldson Custom Auto and Cycle and will conform with the current use of the surrounding properties that have the business of A-1 towing, Southwest Homes, and Tom’s Auto Salvage.”

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.

- According to the applicant, all manufacturing processes will be enclosed in the existing metal structure, no noise will be discernible from the property line. The applicant stated that some noise may stem from the outdoor storage yard use, located north of the manufacturing site. Operations within the yard will be limited to 7:00 a.m. to 5:00 p.m., Monday through Friday and from 8:00 a.m. to noon on Saturday. The BP Zone District prohibits negative externalities, and the applicant must conform to those standards.

A tentative site plan showing proposed structures, uses, open spaces, facilities for parking and loading and arrangements for pedestrian and vehicular circulation

- A zoning exhibit was provided by the applicant.

A statement of the proposed time schedule for beginning and completion of development.

- The application states that site development will occur within three months of the rezoning approval.

A statement reasonably indicating the applicant's economic responsibility and capability of accomplishing the development for which a zoning amendment is requested.

- According to the application, “Summit Brick has been a locally owned and operated manufacturing company in Pueblo since 1902. It has the economic responsibility and capability of expanding it’s manufacturing into stone veneer. Summit Brick has been a good member of the Pueblo business community providing quality jobs, city and county tax revenues, and the economic impact of its business activities stay within the local economy.”

RCOMMENDED ACTION:

If the Planning and Zoning Commission finds the rezoning request furthers the goals and objectives of the Comprehensive Plan, a recommendation of approval to City Council is appropriate with the following conditions:

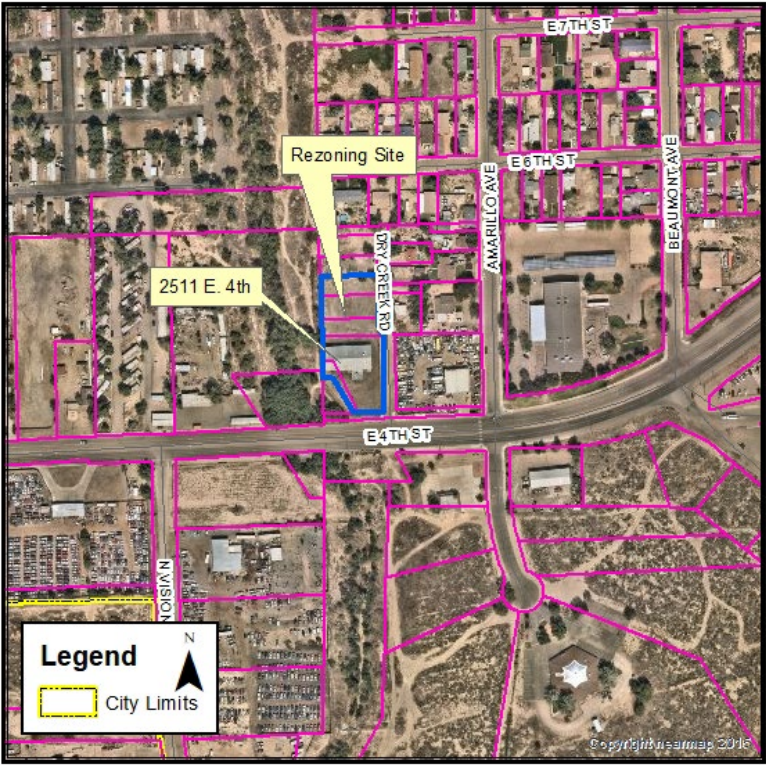
1. Eastwood Subdivision, Rearrangement of Property Boundaries, RPB-22-15 must be approved and recorded prior to City Council review and approval of the rezoning request.
2. The applicant must receive a variance from the 100-foot distance requirement for a structure in a BP Zone District to a residential zone district prior to City Council review and approval.

REFERRAL AGENCIES AND COMMENTS:

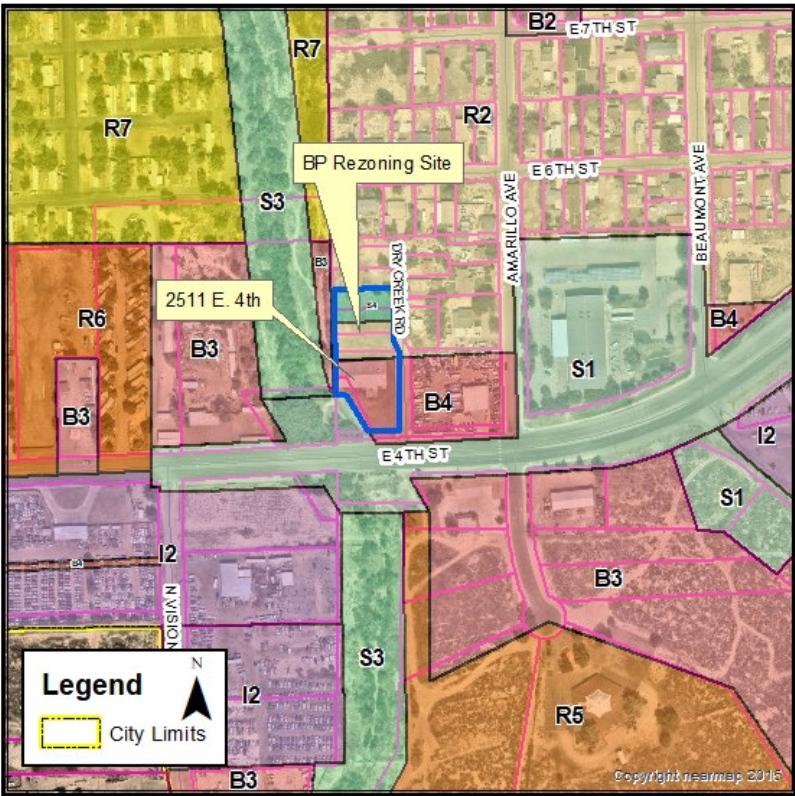
- City Public Works-No comment
- City Transportation-No comment
- City Law Department-No comment
- Pueblo Regional Building Department-No comment
- City Fire Department-No comment
- City Wastewater-No comment
- City Stormwater-No comment
- City Parks and Recreation Department-No comment
- Xcel Energy-No comment
- Black Hills Energy-No comment
- CDOT-No comment

ATTACHMENTS:

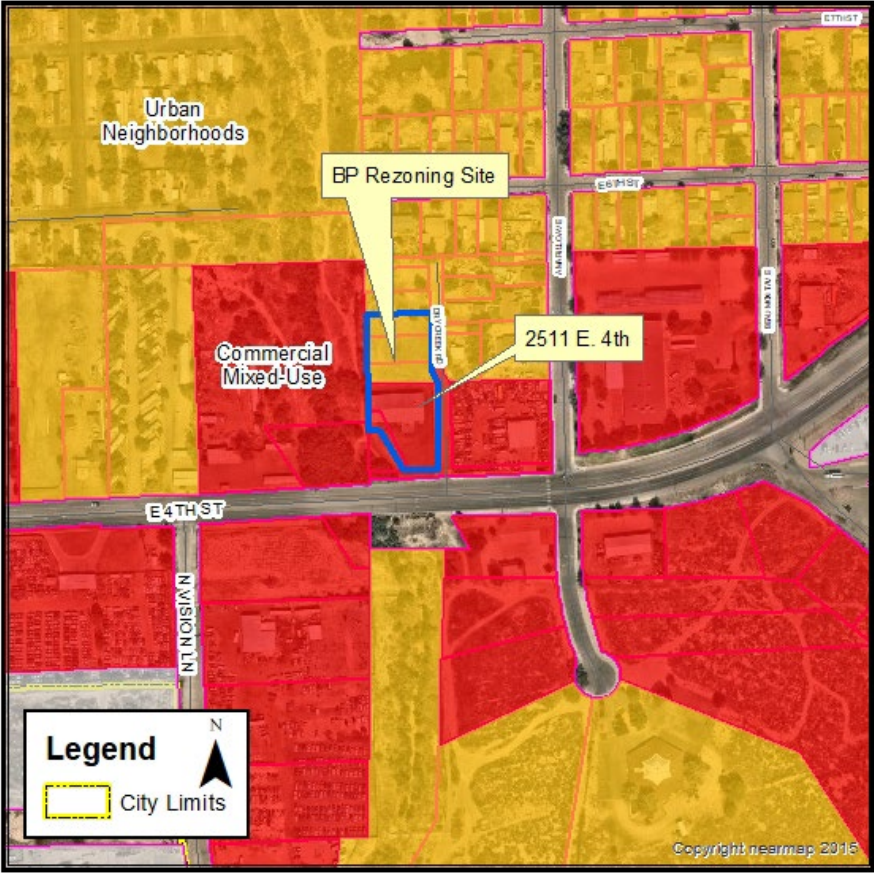
- A. Aerial Photograph
- B. Zoning Map
- C. Comprehensive Plan Map
- D. Site Photographs
- E. Zoning Exhibit and Application



A. Aerial



B. Zoning



C. Comprehensive Plan



D. Public Notice looking north from E. 4th Street



D. 2511 E. 4th Street looking north from Dry Creek Rd.



D. Southern portion of the 2511 E. 4th Street parcel looking north from Dry Creek Rd.



D. Three parcels located north of 2511 E. 4th Street, looking north from Dry Creek Rd.



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

Planning & Zoning Map Amendment Application (Rezoning)

Please type or print clearly. Illegible applications will not be accepted. Case #: _____

Property Owner	
Name: Brick Solid Investments, LLC	
Company: Same	
Address: 601 E 13th Street, Pueblo, CO	Zip: 81001
Phone: () 719-542-8278	Email: mrwelte@summitbrick.com
Applicant	
Name: Matt Welte	
Company: Brick Solid Investments, LLC	
Address: 601 E 13th Street, Pueblo, CO	Zip: 81001
Phone: () 719-542-8278	Email: mrwelte@summitbrick.com
Person or Firm Representing (If Different From) Owner or Applicant	
Name: Julie Troutt	
Company: Colorado Land Surveyors, Inc.	
Address: 184 S. Tiffany Dr., Ste. 106 Pueblo West, CO	Zip: 81007
Phone: () 719-542-9169	Email: socolandsurvey@gmail.com
<i>The applicant will be the primary contact unless otherwise noted.</i>	
Project Location: 2511 E. 4th Street (address or general description)	
Parcel# 433004020, 433004003, 433004004, 433004005	
Legal Description: Portions of Blocks 1 and 6, Eastwood Subdivision (Lot 1 RPB 22-***)	
Subdivision: Eastwood	Acreage: 1.08 ac or 47,236 sf
Existing Zone District: S-4, R-2, B-4	Proposed Zone District: B-P

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.

Business Park zoning will conform with the previous use of the property as Donaldson Custom Auto & Cycle and will conform with the current use of surrounding properties that have the businesses of A-1 towing, Southwest Homes, and Tom's Auto Salvage.

Description of area surrounding proposed development:

Businesses of A-1 towing to the east, Southwest Homes to the west, Tom's auto salvage to the south, vacant land to the west with residential past the vacant land. There are also residential to the east that is north of A-1 towing

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.

Summit Brick plans to manufacture stone veneer at the location in the existing building. No new buildings are planned. Manufacturing will occur in the current building with material and product being stored outside in the north fenced area. There will be no environmental effects as the manufacturing will occur in the building, traffic effect will be minimal, and economic effect will be the addition of 4-5 jobs. Trash dumpster and storage area will be fenced and screened.

- ☐ 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: upon zoning approval

Estimated date for completion of project: 3 month from zoning approval

A statement reasonably indicating the applicant's economic responsibility and capability of accomplishing the development for which a zoning amendment is requested.

Summit Brick has been a locally owned and operated manufacturing company in Pueblo since 1902. It has the economic responsibility and capability of expanding its manufacturing into stone veneer. Summit Brick has been a good member of the Pueblo business community providing quality jobs, city and county tax revenues, and the economic impact of its business activities stay in the local economy.

- ☐ 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.

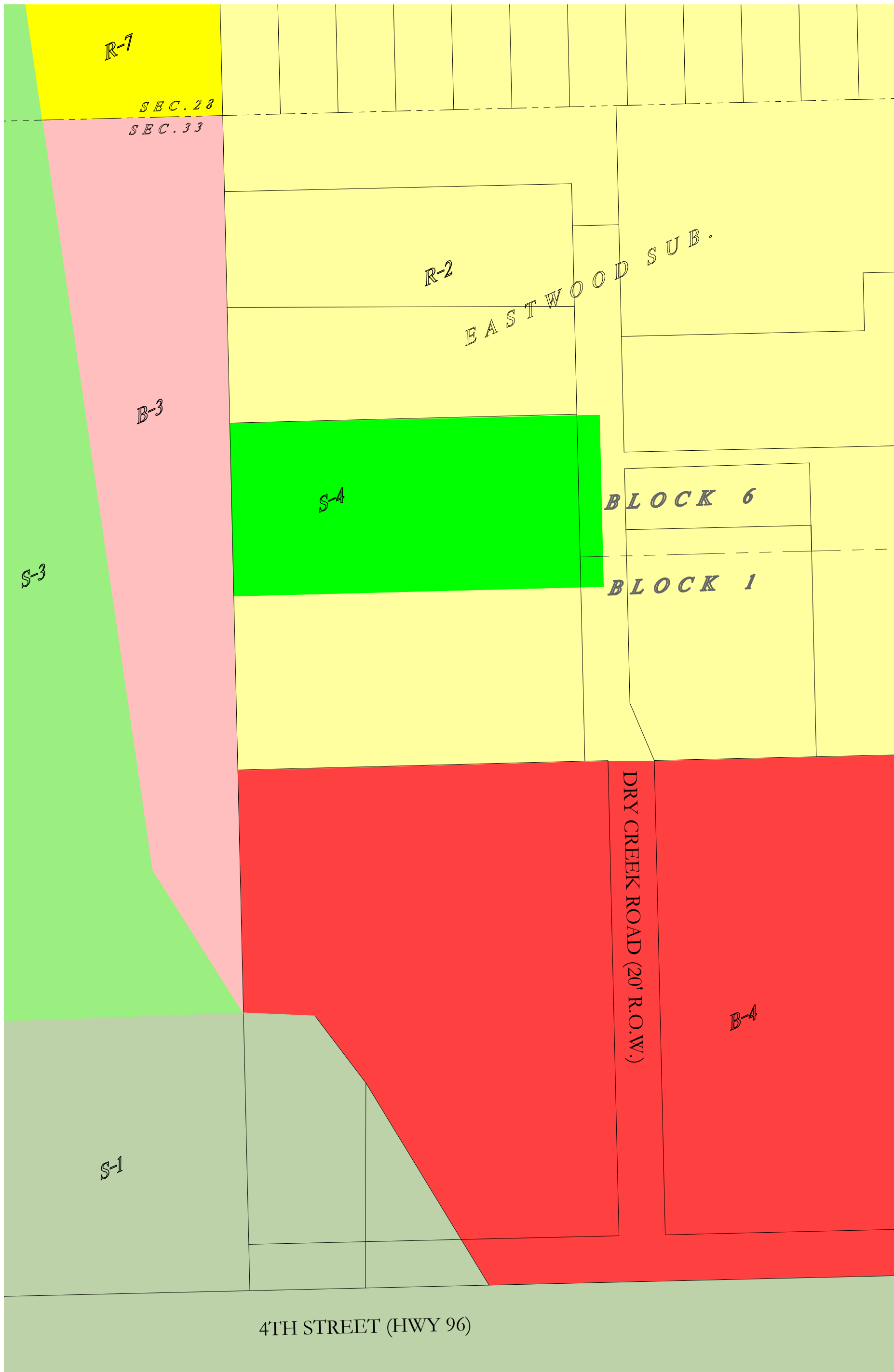
Office Use Only	Zoning Compliance (Completed by City Staff)	
	Application received by:	Date:
	Application checked for completeness by:	Date:
	Case Manager:	Fee Paid:
	Hearing date:	☐ Approved ☐ Denied ☐ Approved w/conditions

211 East D Street | Pueblo, Colorado 81003 | Tel 719-553-2259 | Fax 719-553-2359 | TTY 719-553-2611 | www.pueblo.us

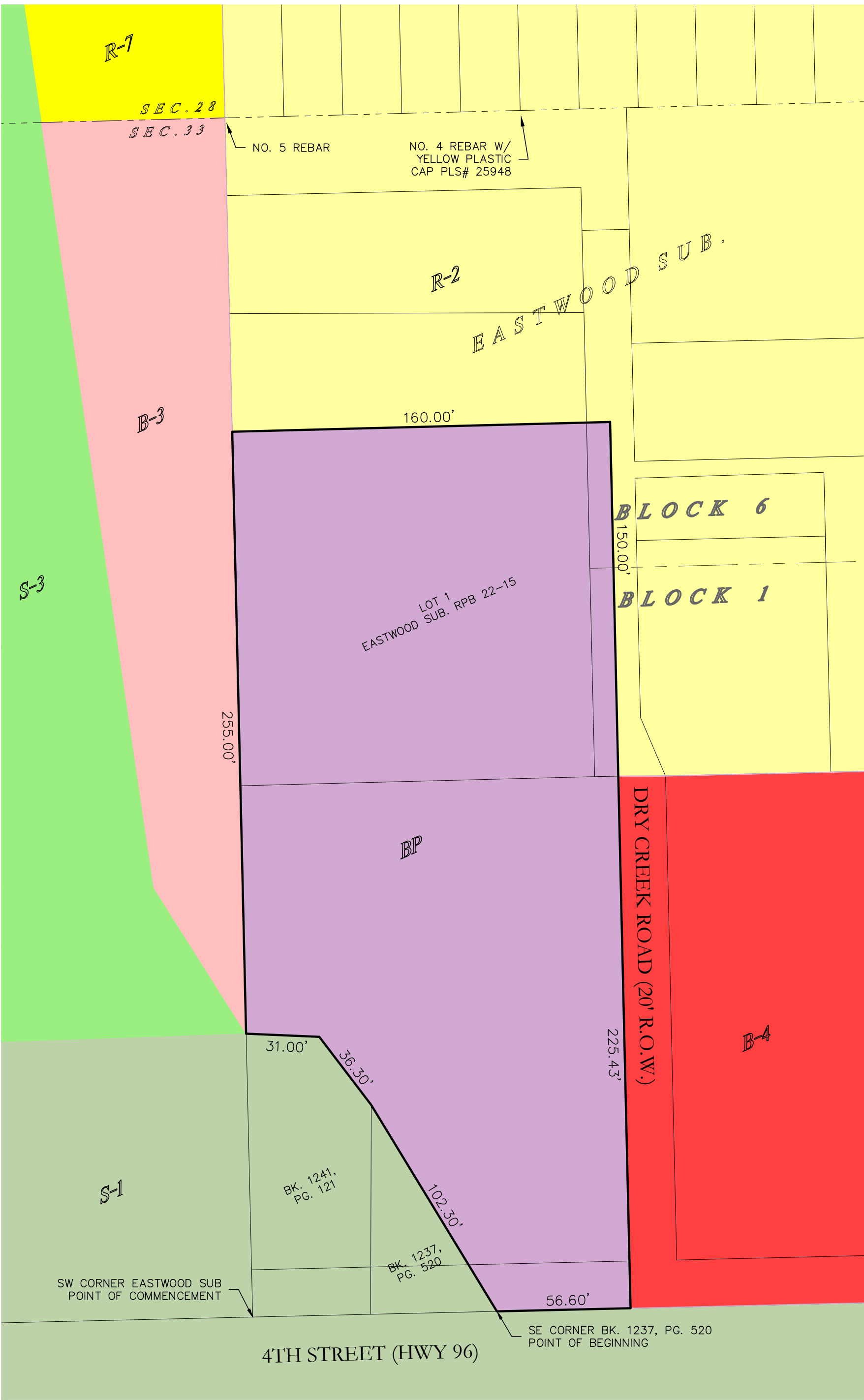
2. There are no known hazards or vicious animals present on the subject property.
3. All information contained in this application, is true and accurate to the best of my knowledge.
4. The City of Pueblo is under no obligation to approve the request contained in this application. No promises of approval are conveyed with the acceptance of this application.

Property Owner		
Print Name:	MATTHEW R WELTE, MEMBER BRICKS & INVESTMENTS, LLC	
Signature:	<i>Matthew R Welte</i>	Date: 12-1-2022
Applicant, if different from Property Owner		
Print Name:		
Signature:		Date:

ZONE CHANGE
of a portion of Block 1 and Block 6,
Eastwood Subdivision
In Section 33, Township 20 South,
Range 64 West of the 6th P.M. in
Pueblo County, Colorado



EXISTING ZONING



REQUESTED ZONING

APPLICANT HEREBY REQUESTS: That the existing various zonings be changed to Business Park (BP) as shown and described hereon, to wit:

Commencing at the Southwest corner of Eastwood Subdivision, easterly along the southerly line of said Eastwood Subdivision a distance of 103.4 feet to the Southeast corner of parcel of land as described in Bk. 1237, Pg. 520 and the POINT OF BEGINNING; THENCE continuing easterly along the southerly line of said Eastwood Subdivision, a distance of 56.6 feet to the westerly right-of-way line of Dry Creek Street as described in Bk. 1457, Pg. 563; THENCE Northerly along said westerly right of way line, a distance of 225 more or less to an angle point in Dry Creek Street; THENCE continuing Northerly along the centerline of Dry Creek Street, a distance of 150.00 to the easterly extension of the north line of Lot 1, Eastwood Subdivision RPB 22-15; THENCE Westerly along said North line and extension thereof, a distance of 160.00 feet to the Westerly line of Eastwood Subdivision; THENCE Southerly along said Westerly line, a distance of 255' to the Northwest corner of that parcel of land as described in Bk. 1241, Pg. 121; THENCE Southeasterly along the Northerly and Easterly line of said Bk. 1241, Pg. 121 and the Easterly line of that parcel of land as described in Bk. 1237, Pg. 520 to the POINT OF BEGINNING.

The above requested BP zoning contains 51,889 ft² (1.19 acre) more or less.

APPROVAL

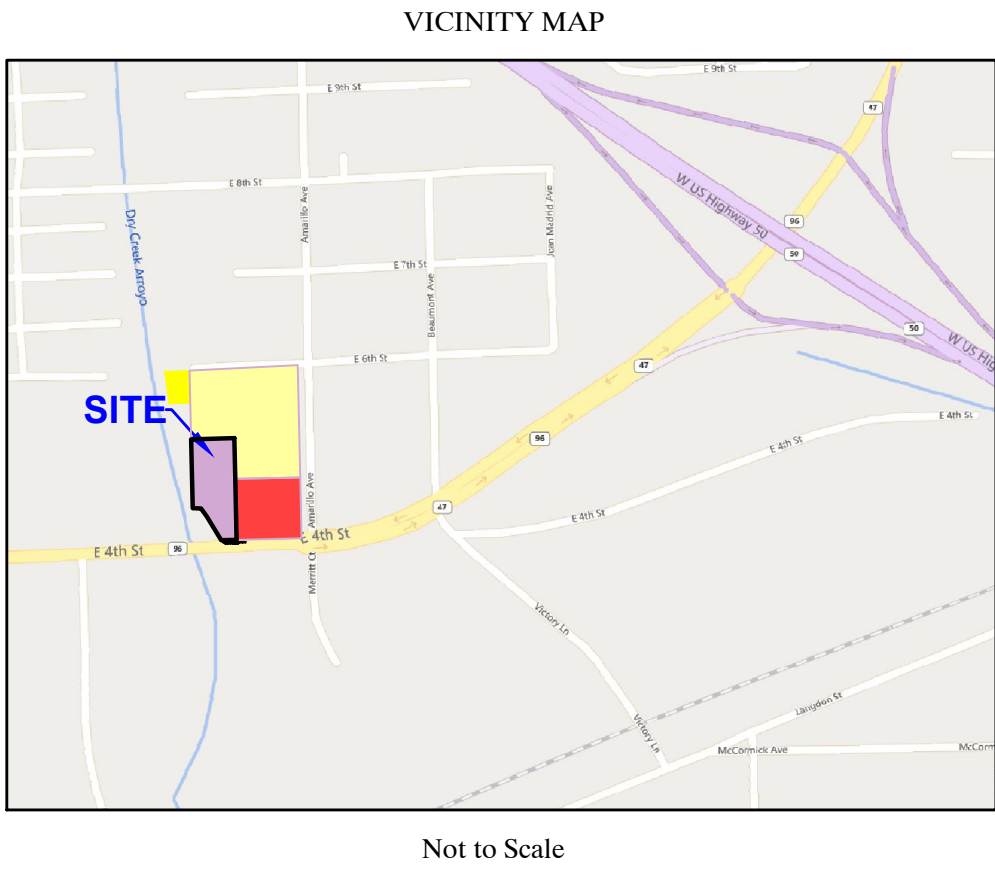
By: _____
Department of Planning & Community Development

By: _____
Director of Public Works

APPROVAL ATTESTED BY:

By: _____
Administrative Official

Date: _____



- BP - BUSINESS PARK
- B-3 - HIGHWAY & ARTERIAL BUSINESS
- B-4 - CENTRAL BUSINESS DIST.
- R-2 - SINGLE FAMILY RESIDENTIAL
- R-7 - MOBILE HOME RESIDENTIAL
- S-1 - GOVERNMENT USE
- S-3 - FLOOD PLAIN DIST.
- S-4 - PARKING DIST.

Notice:
According to Colorado Law, you must commence any legal action based upon any defect in this survey within three (3) years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten (10) years from the date of certification shown hereon.

Title work provided by Land Title Guarantee Company, Old Republic National title Insurance Company, File No. PBC35059765-2, bearing an effective date of January 23, 2023 at 5:00 P.M.

Distances shown hereon are ground distances of the Colorado State Plane Coordinate System, South Zone, NAD83 US Ft. and utilize a combination scale factor of 1.0002466318.

The area being affected by this REZONE REQUEST is 1.19 Ac. ±.

Colorado Land Surveyors, Inc.
184 S. Tiffany Dr., Ste. 106
Pueblo West, CO 81007
719-542-9169

February 16, 2023

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **Brick Solid Investments, LLC** for approval of the following application:

Z-22-22 Rezoning: 2511 E. 4th St., approximately 1.08 acres to be rezoned from S-4, R-2, and B-4, to B-P, Business Park. Generally located north of E. 4th St. and west of Dry Creek Rd.

The Planning and Zoning Commission meeting will be held on March 8, 2023, at 3:30 p.m., in City Council Chambers, 1 City Hall Place, Pueblo, CO or by Zoom: <https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGbnlCdHRrUHNFZnpPWGIYdz09>, Meeting ID: 927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston). You are welcome to attend this public hearing and express your viewpoint concerning this proposal. To review the plans and staff report for the proposed application, please visit www.pueblo.us/PandZ and click on “Most Recent Agenda” no sooner than the Friday prior to the hearing. **Please contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

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Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

CASE NUMBER: Z-22-22

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 2511 E 4th.to be sent to the attached list of owners of the real property lying within three hundred (300) feet of the said property on which the Zoning Map Amendment is proposed by depositing the same properly addressed and postage paid in the post office, as set forth in the Code of Ordinances, Section 17-6-2.

February 16, 2023
(Date)

PUEBLO PLANNING & ZONING COMMISSION

By 

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 2511 E. 4th, upon which action is pending as set forth in the Code of Ordinances, Section 17-6-2.

February 16, 2023
(Date)

PUEBLO PLANNING & ZONING COMMISSION

By 

Owner	OwnerStreet	OwnerCity	Owner	OwnerZip
MARTINEZ JAIME J	1802 E 3RD ST	PUEBLO	CO	81001-4141
PUEBLO COUNTY	215 W 10TH ST	PUEBLO	CO	81003-2941
TONEY RON	2205 CHRISTMAS TREE LN	RIVERBANK	CA	95367-9673
T N C INVESTMENTS INC	2405 E 4TH ST	PUEBLO	CO	81001-4243
MAES DAVID A	2501 E 6TH ST	PUEBLO	CO	81001-2303
MARMOLEJO JOSE/MARMOLEJO TINA M	2504 E 6TH ST	PUEBLO	CO	81001-2303
VEGA DIANA L	2509 E 6TH ST	PUEBLO	CO	81001-2303
FIERI CAROL / BAILEY KENNETH R	2514 E 6TH ST	PUEBLO	CO	81001-2303
AVILA GILDARDO CORONEL	2526 E 6TH ST	PUEBLO	CO	81001-2303
TALON INVESTMENTS LLC	2531 E 4TH ST	PUEBLO	CO	81001-4244
STEIR THERESA/STEIR AUSTIN R	300 N VISION LN	PUEBLO	CO	81001-4213
WORNER CARMELA M	319 KENWOOD DR	PUEBLO	CO	81004-1623
ADAMS INVESTMENTS LLC	320 S SANTA FE AVE	PUEBLO	CO	81003-3533
TRINITY LIFE CENTER	36 MERRITT CT	PUEBLO	CO	81001-4258
MONTOYA ELEANOR E	402 BOOTH AVE	PUEBLO	CO	81001-4219
DEPT OF HIGHWAYS + STATE OF COLORADO ,	4201 E ARKANSAS AVE	DENVER	CO	80222-3406
SOLANO GERALD L + GUTIERREZ BRANDY J ,	439 AMARILLO AVE	PUEBLO	CO	81001-2326
STONE GEORGE + AKA STONE GEORGE A ,	439 DRY CREEK RD	PUEBLO	CO	81001-2358
MARTINEZ BALDERRAMA LUIS C	501 AMARILLO AVE	PUEBLO	CO	81001-2327
BUSTOS DAVID	509 AMARILLO AVE	PUEBLO	CO	81001-2327
BRICK SOLID INVESTMENTS LLC	601 E 13TH ST	PUEBLO	CO	81001-2947
MARTIN FRANCK JM	6809 TIGER WALK	LITTLETON	CO	80124-9586
COUNTRYSIDE ESTATES M H P + PUEBLO LLC ,	75 TOWNE RIDGE PARKWAY S	SANDY	UT	84070-5531
VONDERWAHL BEN	802 S AGUILAR LN	PUEBLO WEST	CO	81007-5111
BARELA MARTHA + BARELA CHARLES E ,	922 E 1ST ST	PUEBLO	CO	81001-4017
ASCENSION ENTERPRISES	PO BOX 1234	PUEBLO	CO	81002-1234
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: August 14, 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 LOT 3, BLOCK 1, TRINITY SUBDIVISION FROM B-3, HIGHWAY AND ARTERIAL BUSINESS DISTRICT TO I-2, INDUSTRIAL ZONE DISTRICT

SUMMARY:

The applicant is requesting to rezone Lot 3, Block 1, Trinity Subdivision from B-3, Highway and Arterial Business Zone District to I-2, Industrial Zone District.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The applicant is seeking to rezone Lot 3, Block 1, Trinity Subdivision, which is located on North Vision Lane to expand his existing salvage yard located at 300 and 200 North Vision Lane. The rezoning site is in the eastern portion of the city, approximately one half-mile west of the Highway 47 and 50 Bypass interchange. The area was annexed into the City and subdivided in 1981. The property is currently undeveloped and zoned B-3 and is located between two I-2 zoned properties to the north and south. The property directly south, 200 North Vision Lane, was rezoned from B-3 to I-2 in 2021 (Z-21-09). The Pueblo Regional Comprehensive Plan designation of the property is Commercial Mixed Use and adjacent designations include Institutional Mixed-Use to the west and Urban Neighborhoods/Commercial Mixed Use to the east. Despite the Comprehensive Plan designation, which focuses on retail and service enterprises, existing development along Vision Lane is primarily industrial consisting of salvage yards and aggregate suppliers. The site is also located directly south of East 4th Street/Hwy 96, which has substantial through traffic with an Average Annual Daily Traffic (AADT) count of approximately 7,000.

A Special Use Permit (SUP) is required to operate a salvage yard in an I-2 Zone District. Mr. Steir received a SUP for Tom's Auto Salvage in 2017 for 300 North Vision Lane and another Auto Salvage SUP for 200 South Vision Lane in 2020 (approval was

conditioned upon rezoning the site to I-2), resulting in salvage yard uses being established directly north and south of the subject property. The proposed rezoning will allow Mr. Steir to expand his salvage yard, located at 300 North Vision Lane, south; essentially connecting the two salvage yard businesses and filling the salvage yard gap along Vision Lane. Mr. Steir was approved for a Special Use Permit on December 28, 2022 for a Salvage Yard for Lot 3, Block 1, Trinity Subdivision with the condition that the rezone request is approved by City Council.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their July 13, 2022 Regular Meeting, voted 6-0 to recommend approval, Commissioner Avalos 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 re-zoned..

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-22-11 Combined Attachments

ORDINANCE NO.

AN ORDINANCE AMENDING ZONING RESTRICTIONS TO
REZONE LOT 3, BLOCK 1, TRINITY SUBDIVISION FROM B-3,
HIGHWAY AND ARTERIAL BUSINESS 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 B-3, Highway and Arterial Business Zone District to I-2, Industrial Zone District:

Lot 3, Block 1, Trinity Subdivision

SECTION 2.

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

SECTION 3.

This Ordinance shall become effective immediately upon final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

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

433005035

433012003

Rezone Area

433012004

433012001

433000036

433012005

433012009

Legend



433012004



City Limits

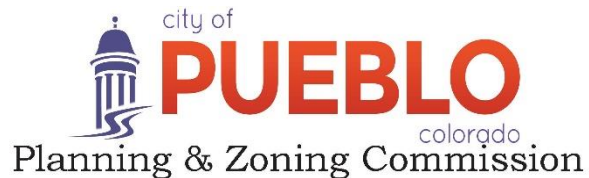
NT VISION LN



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, July 13, 2022 – 3:30 p.m.

City Council Chambers, 1 City Hall Place

Join Zoom Meeting online:

<https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGBnlCdHRrUHNfZnpPWG1Ydz09>

Join Zoom Meeting by phone:

+1 669 900 6833 US (San Jose)

+1 346 248 7799 US (Houston)

Online and phone Meeting ID and Password:

Meeting ID: 927 1786 7722

Passcode: 195462

MEETING CALLED TO ORDER

The meeting was called to order at 3:31 p.m. with Commissioner Castellucci presiding.

The meeting was held at City Council Chambers, 1 City Hall Place, commissioners, applicants, and the public participated in person and via Zoom.

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

Commissioners Absent: Patrick Avalos

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

APPROVAL OF THE JULY 13, 2022, AGENDA:

Bailey moved to approve the agenda with the following changes:

1. Move S-22-06, North Vista Filing No. 5 Subdivision to the August 10, 2022, Public Hearing.
2. Move CP-22-01, Pueblo Regional Comprehensive Plan to the last item on the July 13th agenda.
3. Move Z-22-05, Cottages at Park West Rezoning to the August 10, 2022, Public Hearing
4. Move S-22-03, Cottages at Park West, Subdivision to the August 10, 2022, Public Hearing.
5. Move SAP-22-01, Cottages at Park West, Special Area Plan to the August 10, 2022, Public Hearing.

Seconded by Aznar,

Motion carried 6-0, Avalos absent

PUBLIC HEARING AND ACTION

1. **Z-22-11 Rezone:** Parcel 433012004 - N. Vision Lane, Lot 3, Block 1, Trinity Subdivision: approximately 1.03 acres generally located north of McCormick Avenue and West of Vision Lane from Highway and Arterial (B-3) Zone District to Light Industrial (I-2) Zone District.

Staff report by Bart Mikitowicz

BACKGROUND AND ANALYSIS:

The applicant is seeking to rezone Lot 3, Block 1, Trinity Subdivision, which is located on N. Vision Lane to expand his existing salvage yard located at 300 and 200 N. Vision Lane. The rezoning site is located in the eastern portion of the city approximately one half-mile west of the Highway 47 and 50 Bypass interchange. The area was annexed into the city and subdivided in 1981. The property is currently undeveloped and zoned B-3 and is located between two I-2 zoned properties to the north and south. The property directly south, 200 N. Vision Lane, was rezoned from B-3 to I-2 in 2021 (Z-21-09). The Pueblo Regional Comprehensive Plan designation of the property is Commercial Mixed Use and adjacent designations include Institutional Mixed-Use to the west and Urban Neighborhoods/Commercial Mixed Use to the east. Despite the Comprehensive Plan designation, which focuses on retail and service enterprises, existing development along Vision Lane is primarily industrial consisting of salvage yards and aggregate suppliers. The site is also located directly south of E. 4th Street/Hwy 96, which has substantial through traffic with an Average Annual Daily Traffic (AADT) count of approximately 7,000

A Special Use Permit (SUP) is required to operate a salvage yard in an I-2 Zone District. Mr. Steir, received a SUP for Toms Auto Salvage in 2017 for 300 N. Vision Lane and another Auto Salvage SUP for 200 S. Vision Lane in 2020 (approval was conditioned upon rezoning the site to I-2), resulting in salvage yard uses being established directly north and south of the subject property. The proposed rezoning will allow Mr. Steir to expand his salvage yard, located at 300 N. Vision Lane, south; essentially connecting the two salvage yard businesses and filling the salvage yard gap along Vision Lane.

COMPREHENSIVE PLAN COMPLIANCE:

The project site has been designated by the Comprehensive Plan as “Commercial Mixed Use.” While the Comprehensive Plan designation of Commercial Mixed Use area notes that the primary focus of these areas is retail sales and personal services and some office space, this land use category does not prohibit any compatible land use and allows for supporting services. A salvage yard as an intended use will not include industrial processes that emit significant smoke, noise or odors or handle hazardous materials. Though the Salvage Yard use is not consistent with the Comprehensive Plan, the intended use appears to be compatible with adjacent land uses such as Rockworx Aggregate Supplier, and C&E Used Auto Parts Salvage Yard.

Castellucci asked if the applicant has applied for the Special Use Permit to operate a Salvage Yard? Mikitowicz stated that they have not yet applied for the Special Use Permit.

Bailey asked if the rezoning is not consistent with the Comprehensive Plan is there a conflict if uses change in the future? Mikitowicz stated that previous approvals for the Salvage Yard SUP and rezoning to I-2, indicate a shifting of land use. Odom stated that the Comprehensive Plan calls for a mixture of uses and only excludes heavy industry. Hobson stated that the Comprehensive Plan is a guide, in previous situations where a zoning action did not meet the Comprehensive Plan requirements, staff has provided a justification for why the use is recommended based on the predominant development in the area.

Spinuzzi asked if the property owner had approved the application for rezoning. Odom stated that the property owner signed the application.

HEARING: Austin Steir, applicant, testified in favor of the application.

No one testified in opposition

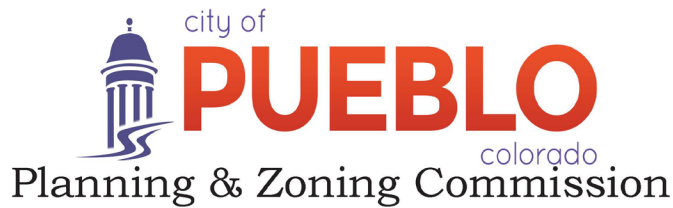
MOTION: Bailey moved to approve subject to the applicant receiving a Special Use Permit for a Salvage Yard for the subject property prior to the rezoning being reviewed by City Council, seconded by Aznar.

Motion carried 6-0 (Avalos absent)

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Bob Schilling
City Council Representative



Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

Z-22-11

TO: City of Pueblo, Planning and Zoning Commission

FROM: Bart Mikitowicz, Senior Planner

THROUGH: Scott Hobson, Acting Director of Planning and Community Development

DATE: 7/13/2022

SUBJECT: **Rezone N. Vision Lane, Lot 3, Block 1, Trinity Subdivision, approximately 1.03 acres from B-3, Highway and Arterial Business District to I-2, Industrial Zone District**

APPLICANT: **Austin Steir for Tom's Auto Salvage, 300 North Vision Lane**

PROPERTY OWNER: Robert Montoya Jr. and Ronald Montoya

EXISTING ZONE: B-3, Highway and Arterial Business District

PROPOSED ZONE: I-2, Industrial District

CONCURRENT REQUESTS: None

REQUEST:

Applicant is requesting to rezone Lot 3, Block 1, Trinity Subdivision, from Highway and Arterial Business (B-3 zone) district to Industrial (I-2 zone) district to facilitate a salvage yard use.

ANALYSIS:

The applicant is seeking to rezone Lot 3, Block 1, Trinity Subdivision, which is located on N. Vision Lane to expand his existing salvage yard located at 300 and 200 N. Vision Lane. The rezoning site is located in the eastern portion of the city approximately one half-mile west of the Highway 47 and 50 Bypass interchange. The area was annexed into the city and subdivided in 1981. The property is currently undeveloped and zoned B-3 and is located between two I-2 zoned properties to the north and south. The property directly south, 200 N. Vision Lane, was rezoned from B-3 to I-2 in 2021 (Z-21-09). The Pueblo Regional Comprehensive Plan designation of the property is Commercial Mixed Use and adjacent designations include Institutional Mixed-Use to the west and Urban Neighborhoods/Commercial Mixed Use to the east. Despite the Comprehensive Plan designation, which focuses on retail and service enterprises, existing development along Vision Lane is primarily industrial consisting of salvage yards and aggregate suppliers. The site is also located directly south of E. 4th Street/Hwy 96, which has substantial through traffic with an Average Annual Daily Traffic (AADT) count of approximately 7,000

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established directly north and south of the subject property. The proposed rezoning will allow Mr. Steir to expand his salvage yard, located at 300 N. Vision Lane, south; essentially connecting the two salvage yard businesses and filling the salvage yard gap along Vision Lane.

COMMISSION ACTION:

Staff suggests that if the Planning and Zoning Commission votes to recommend approval of the proposed rezoning of Lot 3, Block 1, Trinity Subdivision to I-2, the recommendation for approval is conditioned upon the applicant receiving approval of a Special Use Permit for the proposed salvage yard use.

PLANNING AND COMMUNITY DEVELOPMENT COMMENTS

CHARACTER AND COMPATIBILITY:

Site Character:

The site is currently undeveloped with an arroyo on the eastern portion of the property.

Neighborhood Compatibility:

North	I-2, Light Industrial
East	S-3 Floodplain District and R-5, Mixed Residential and Office District
South	S-3 Floodplain District.
West	I-2 Pueblo County Industrial District.

The surrounding neighborhood is an eclectic mixture of zone districts, the land to the west is zoned County I-2 and is home to an aggregate supplier. East of the site is a substantial natural drainage arroyo that is zoned S-3 Floodplain District with unimproved R-5, Mixed Residential and Office District east of the arroyo. Development of the property within an I-2 is subject to district performance standards to maintain neighborhood compatibility. Operating a salvage yard is subject to annual licensing and performance standards.

Comprehensive Plan Compliance:

The project site has been designated by the Comprehensive Plan as “Commercial Mixed Mixed Use.” While the Comprehensive Plan designation of Commercial Mixed Use area notes that the primary focus of these areas is retail sales and personal services and some office space, this land use category does not prohibit any compatible land use and allows for supporting services. A salvage yard as an intended use will not include industrial processes that emit significant smoke, noise or odors or handle hazardous materials. Though the Salvage Yard use is not consistent with the Comprehensive Plan, the intended use appears to be compatible with adjacent land uses such as Rockworx Aggregate Supplier, and C&E Used Auto Parts Salvage Yard.

ABILITY TO COMPLY WITH THE PROPOSED ZONE DISTRICT:

Minimum lot size and area:

- I-2 Zone District requires a minimum of 10,000 square foot of lot area, with a minimum of 50-foot-wide street frontage.
- **The lot meets the minimum standards; Lot area is 40,068 sq. ft., frontage is 174 feet.**

Lot coverage:

- The I-2 Zone District allow a maximum lot coverage of 100%.
- **There are no proposed structures**
- **Maximum height:**
 - The I-2 Zone District allows unlimited maximum building height, provided there are additional setbacks for structures over 35 feet in height.
 - **There are no proposed structures.**
- **Setbacks:**
 - The I-2 Zone District require the following setbacks:
 - Front – 0 feet
 - Side – 0 feet (5 if adjacent to residential or special zone)
 - Rear – 0 feet (15 if adjacent to residential or special zone)
 - **There are no proposed structures**
- **Conclusion:**
The property has the ability to comply with the proposed zone district.

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 applicant's 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 property owner has signed the affidavit for the applicant.

The nature of the amendment and a legal description of the property that would be affected by the amendment.

Comments - A full legal description of the property was provided with the application and is attached to the staff report.

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 application states that the proposed Salvage Yard will not have a detrimental effect on traffic. The application does not address environmental effect or economic effect.

A tentative site plan showing proposed structures, uses, open spaces, facilities for parking and loading and arrangements for pedestrian and vehicular circulation.

Comments - No site plan for development was provided.

A statement of the proposed time schedule for beginning and completion of development.

Comments - No date was indicated.

A statement reasonably indicating the applicant's economic responsibility and capability of accomplishing the development for which a zoning amendment is requested.

Comments - The application did not indicate financial feasibility.

REFERRAL AGENCIES AND COMMENTS:

- City Public Works-No comment
- City Transportation-No comment
- City Law Department-No comment
- City Stormwater - Part of this lot is in the floodplain. No cars, buildings or structures can be in the floodplain
- Pueblo Regional Building Department-No comment
- City Fire Department-No comment
- City Wastewater-No comment
- City Parks and Recreation Department-No comment
- Xcel Energy-No Comment
- Black Hills Energy-No comment
- CDOT-No comment

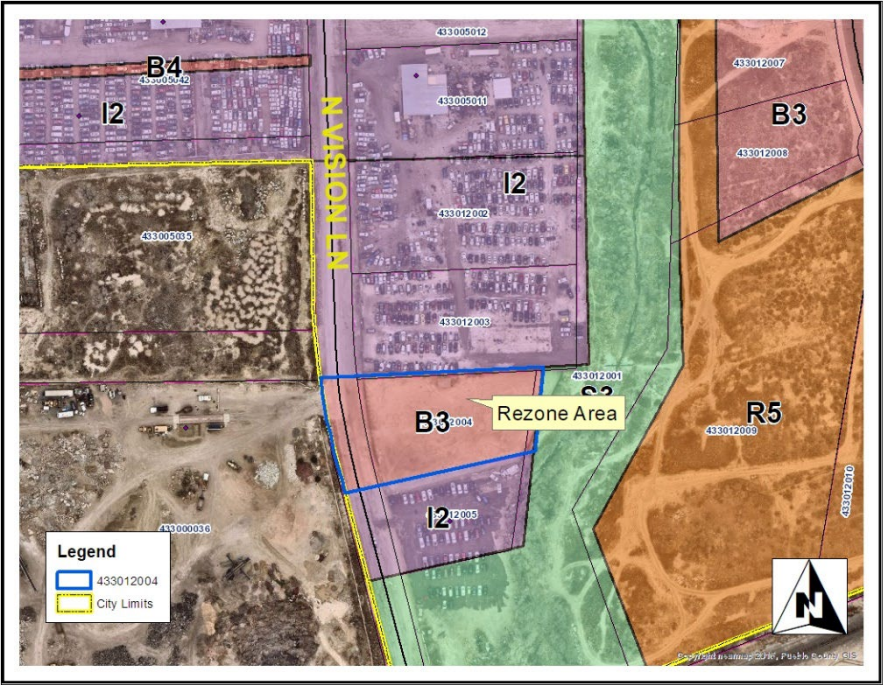
ATTACHMENTS:

- A. Aerial Map**
- B. Zoning Map**
- C. Comprehensive Plan Map**
- D. Site Photographs**
- E. Rezoning Exhibit**
- F. Application**

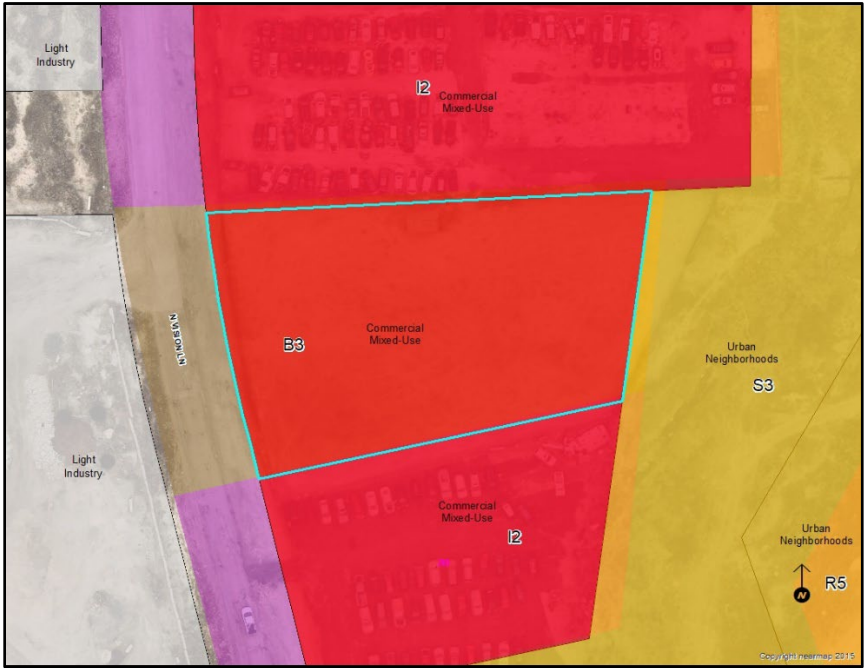
ATTACHMENTS:



A. Aerial Photograph



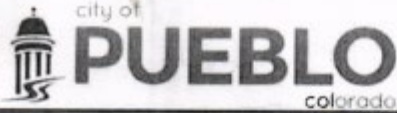
B. Zoning Map



C. Comprehensive Plan







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

Property Owner Affidavit

Please type or **print** clearly. Illegible applications will not be accepted.

Property Owner:			
Name: <u>Ronald Montoya</u>		Company:	
Address: <u>Parcel # 433012004</u>			
City: <u>Pueblo</u>		State: <u>CO</u>	Zip: <u>81001</u>
Phone: <u>719-240-0718</u>		Email:	
Applicant:			
Name: <u>Austin Steir</u>		Company: <u>Tom's Auto Salvage</u>	
Phone: <u>719-464-2908</u>		Email: <u>Austin.Steir@gmail.com</u>	
Property Address:			

I, Ronald Montoya, hereby state that I am the owner of record of the property located at _____, Pueblo, Colorado, and further acknowledge that by signing this affidavit I authorize the submission of an application for a Resone/Special Use at said location.
(application type)

Ronald Montoya 4-18-22
 Signature of Property Owner Date

June 24, 2022

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Austin Steir** for the approval of the following application(s):

Rezone: Parcel 433012004 - N. Vision Lane, Lot 3, Block 1, Trinity Subdivision: approximately 1.03 acres generally located north of McCormick Avenue and West of Vision Lane from Highway and Arterial (B-3) Zone District to Light Industrial (I-2) Zone District.

The Planning and Zoning Commission meeting will be held on July 13th, 2022, at 3:30 p.m., by Zoom: Meeting ID:927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston)) or in-person at 1 City Hall Pl (3rd Floor City Council Chambers).

You are welcome to attend this public hearing and express your viewpoint concerning this proposal. To review the plans and staff report for the proposed application, please visit www.pueblo.us/PandZ and click on “Most Recent Agenda” no sooner than the Friday prior to the hearing. **Please contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Bart Mikitowicz, Sr. Planner
(719) 553-2321

June 24, 2022

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Scott Hobson, Director
Planning & Community Development
Bart Mikitowicz, Sr. Planner
(719) 553-2321

CASE NUMBER Z-22-11

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 Parcel 433012004 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.

6-27-22

(Date)

PUEBLO PLANNING & ZONING COMMISSION

By Karen Elgin

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 Parcel 433012004, upon which action is pending as set forth in the Code of Ordinances, Section 17-6-2.

6-27-22

(Date)

PUEBLO PLANNING & ZONING COMMISSION

By Karen Elgin

Owner	OwnerStree	OwnerCity Own	OwnerZip
MOORE JACK R	1155 HILLS CIR	PAGOSA SF CO	81147-8848
STEIR THERESA/STEIR AUSTIN	300 N VISION LN	PUEBLO CO	81001-4213
MONTOYA ROBERT JR/MONTO	421 BOOTH AVE	PUEBLO CO	81001-4218
PALMA TRUCKING LLC INC	553 CAMINO DE LOS RANCHOS	PUEBLO W CO	81007-4066
ROCKWORX INC	PO BOX 11096	PUEBLO CO	81001-0096
ASCENSION ENTERPRISES	PO BOX 1234	PUEBLO CO	81002-1234



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 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 DESIGNATING 314 WEST 18TH STREET, THE EDWARD TELLER HOUSE, AS A LOCAL HISTORIC LANDMARK

SUMMARY:

The applicant is requesting to designate 314 West 18th Street, the Edward Teller House, as a local landmark.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The property owner is requesting to designate 314 West 18th Street, the Edward Teller House, as a local Landmark. The applicant provided documentation to demonstrate that the residence was constructed in 1918 and associated with Edward Teller, quarry owner; Dr. James H. Risley, Pueblo, Superintendent of Pueblo City Schools, and Matt Peulen, two-time County Commissioner. The applicant is seeking designation to honor its past as well as to utilize the state tax credit for rehabilitation. The home was also considered for inclusion into the North Side Historic District in 2007; however, the property owner, at that time, requested the property be removed from the district. The residence qualifies under landmark Criteria 1A, significant events/people, for having direct association with Edward Teller, Matt Peulen, and especially Dr. Risely who was the first superintendent of District 60 and published books on education theory nationally. The building also qualifies for nomination under criteria 2A, architecture, as a good example of a Craftsman style home. The subject property is in the 2022, Pueblo Comprehensive Plan Urban Neighborhoods Future Land Use area, and the landmarking is compatible with the goals of the plan, which highlights the importance of expanding local Landmarks. A detailed review of the Comp Plan compliance is discussed in the staff report, for case number HPC-23-05.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Historic Preservation Commission, at their June 21, 2023 Regular Meeting, voted 5-0 to recommend approval. Commissioners Perko and Scoby absent.

The Planning and Zoning Commission, at their July 12, 2023, Regular Meeting, voted 6-0 to recommend approval. Commissioner Martinez absent.

STAKEHOLDER PROCESS:

The application was reviewed at a public hearing held by the Pueblo Historic Preservation Commission held on June 21, 2023 and the application was also reviewed by the City of Pueblo Planning and Zoning Commission at their July 12, 2023 meeting.

ALTERNATIVES:

If City Council does not approve this Ordinance, 314 West 18th Street, will not be designated as a Local Historic Landmark.

Upon request of City Council, the Ordinance could be returned to the Historic Preservation Commission and the Planning and Zoning Commission for consideration of proposed modifications.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. HPC-23-05 Attachments

ORDINANCE NO.

AN ORDINANCE DESIGNATING 314 WEST 18TH STREET, THE
EDWARD TELLER HOUSE, AS A LOCAL HISTORIC LANDMARK

WHEREAS, the City of Pueblo's Historic Preservation Code, Chapter 14, Title IV, states that the City shall identify, designate and preserve those buildings, objects, monuments, structures and sites which reflect outstanding elements of the community's architectural and cultural heritage; and,

WHEREAS, the present application was initiated by the property owner, and the City's Historic Preservation Commission has reviewed the application for designation of 314 West 18th Street, the Edward Teller House, as a Local Historic Landmark and has recommended to the Planning and Zoning Commission the designation of this resource; and,

WHEREAS, the City Planning and Zoning Commission has reviewed the Historic Preservation Commission's recommendation and the designation application and submitted its recommendation thereon for landmark designation to Council; NOW, THEREFORE,

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

SECTION 1.

The City Council finds and determines that 314 West 18th Street, Pueblo, Colorado, the Edward Teller House, and legally described as Lot 7 and 8, Block 24, Henry C. Brown's Addition, AKA Henry C. Brown's Addition, is associated with history, architecture, and geography. It qualifies under landmark Criteria 1A, significant events/people, and qualifies under landmark Criteria 2A, architecture, and complies with the criteria as defined in the Pueblo Historic Preservation Code Section 4-14-8.

SECTION 2.

The City Council hereby designates 314 West 18th Street, the Edward Teller House, as a local Pueblo Historic Landmark, subject to the benefits, obligations and restrictions resulting from such designation as described in Chapter 14, Title IV of the Pueblo Municipal Code.

SECTION 3.

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

SECTION 4.

This Ordinance shall become effective 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

Suzanne Kuehn
Chair

Jocelyn Martinez
Vice Chair

Anthony Perko
Secretary



Laurel Campbell

Amy Scoby

Jan Schraner

Heather Norton

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**Minutes of Regular Meeting
City of Pueblo, Colorado
Wednesday June 21, 2023
City Council Chambers, 1 City Hall Place**

The meeting was called to order at 1:30 p.m. with Suzanne Kuehn, presiding.

Commissioners Present: Laurel Campbell, Suzanne Kuehn, Jocelyn Martinez, Jan Schraner, Heather Norton.

Commissioners Absent: Anthony Perko, Amy Scoby

Staff Members Present: Trevor Gloss, Assistant City Attorney, Scott Hobson, Acting Director of Planning and Community Development, Wade Broadhead, Senior Planner, Cindy Capritta, Land Use Technician.

Staff Members Absent: Beritt Odom, Principal Planner.

APPROVAL OF THE AGENDA:

Campbell moved to approve the agenda, seconded by Schraner.

Motion passed 4-0

Commissioner Norton arrived 1:35 pm.

PUBLIC HEARING:

1. HPC-23-05: 314 W. 18th St. Edward Teller House, Local Landmark Designation

Applicant Charity Krow was sworn in via Zoom and spoke in support of the application.

No one appeared in opposition.

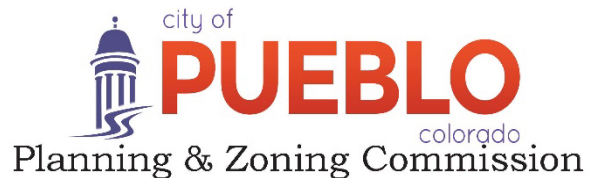
Commission Action: Martinez moved to approve the application for the Landmark Designation seconded by Campbell.

Motion Passed: 5-0

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, July 12, 2023 – 3:30 p.m.

City Council Chambers, 1 City Hall Place

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

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

Commissioners Absent: Sarah Martinez

Staff Members Present: Paul Willumstad, Attorney; Scott Hobson, Acting Director for Development of Planning and Community Development, Beritt Odom, Principal Planner; Wade Broadhead, Senior Planner, and Cindy Capritta, Land Use Technician.

Staff Members Absent: None

APPROVAL OF THE AGENDA: Bailey moved to approve the May 10, 2023, agenda, seconded by, Spinuzzi.

Motion Passed: 6-0

Public Meeting:

1. HPC-23-05 314 W. 18th St., Local Landmark, Recommendation to City Council. Staff report by Wade Broadhead, Senior Planner.

Commission Action: Bailey moved to recommend the Local Landmark application, seconded by Avalos.

Motion Passed: 6-0

Suzanne Kuehn
Chair

Jocelyn Martinez
Vice Chair

Anthony Perko
Secretary



Laurel Campbell

Amy Scoby

Jan Schraner

Heather Norton

211 East D Street | Pueblo, Colorado 81003 | Tel 719-553-2259 | Fax 719-553-2359 | TTY 719-553-2611 | www.pueblo.us

HPC-23-05

June 21, 2023

To: Historic Preservation Commission
From: Wade Broadhead, Senior Planner
Through: Scott Hobson, Acting Director of Planning and Community Development
Location: 314 W. 18th Street
Applicant: Charity Krow, Homeowner
Owner: Same
Year Built: 1918
Legal Description: Lots 7 and 8, Block 24, Henry C. Brown's Addition
Zone District: R-2, Single Family Residential Zone District

Synopsis

The applicant is requesting local Landmark designation for the Edward C. Teller House and associated garage located in the historically significant North Side Neighborhood. According to Section 4-14-8, of the Pueblo Municipal Code, a building object, monument, structure or site may individually be designated as a Landmark if it has distinctive character and meets the criteria listed in the ordinance.

The application cites significance under two criteria, history and architecture, because it was associated with Edward Teller, Vice President of a limestone quarry, Dr. Risley, Superintendent of Schools for 25 years and Matt Peulen, Pueblo County Commissioner. The landmark is also eligible under architecture as good example of an early Craftsman architectural style, exhibited by fine Flemish bond brickwork, diagnostic front porch with rafter and Perlin ends exposed as well as an architecturally compatible single car garage.

The property was eligible for inclusion in the original North Side Historic District boundary proposed in 2007. After discussion with the neighborhood, staff submitted a revised North Side Historic District Boundary which excluded 314 W. 18th Street as well as the adjacent properties to the west (see attachment) leaving it just outside the district boundary. City Council designated the North Side Historic District 2007 excluding this property and several other properties. The new owner wishes to landmark now to take advantage of Colorado State tax credits for rehabilitation.

Background

The owner nominated the building and site for its distinctive character and certain criteria, focusing on social history and architecture and is aware of the reasons for, and effect of, designation of local landmarks in the City of Pueblo. The property was recorded by an architectural historian firm in 2005 who produced a very detailed site form. The property was found to be eligible as a contributing resource in the North Side Historic District at the time of recording. The new owner is requesting to add this house to the North Side Historic District as an individual landmark because the process is simpler than amending the entire historic district and she wishes to utilize the Colorado state preservation tax credit for restoration and repair of the home.

The Pueblo Historic Preservation Commission, in prior cases, has considered landmark designation applications eligible if they meet two of the three criteria. This application's justification of facts proposes eligibility because it meets criteria 1a, 2a.

The applicant nominated the subject property for landmark designation per the requirements contained in Section 4-14-8, Chapter 14 – Historic Preservation Code, Title IV – Building Regulations, of the Pueblo Municipal Code. The Historic Preservation Commission may approve this application if it serves the goals of the historic preservation code. A building, object, monument, structure, or site may individually be designated as a Landmark, or one or more buildings, objects, monuments, structures, or sites which are united by past events or aesthetically by plan or physical development may be designated as a Historic District, if they have distinctive character and meet the following criteria:

1. Special historic or prehistoric interest or importance:
 - a. Has significant character, interest or value, as part of the development, heritage, or cultural characteristics of the City, State, or Nation; or is associated with the life of a person significant in the past; or
 - b. Has the site of a historic event with a significant effect upon society; or
 - c. Exemplifies the cultural heritage of the community; or has yielded, or may be likely to yield, important prehistoric information.
2. Special architectural, engineering, or aesthetic interest or importance:
 - a. Portrays the environment in an era of history characterized by a distinctive architectural style; or
 - b. Embodies those distinguishing characteristics of an architectural-type or engineering specimen; or
 - c. Is the work of a designer whose individual work has significantly influenced the development of the City; or
 - d. Contains elements of design, detail, materials, or craftsmanship which represent a significant innovation.
3. Special geographic interest or importance:
 - a. by being part of or related to a square, park or other distinctive area, which should be developed or preserved according to a plan based on a historic, cultural or architectural motif, or
 - b. owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community, or City.

The application which was prepared by Charity Krow, homeowner with some assistance from staff.

1. A Have Direct Association with the historical development of the city, state, or nation.

Erected in 1918 the Edward Teller House is significant in that it represents the professional and entrepreneurial class moving to Pueblo's North Side neighborhood with Edward Teller, Vice President of a limestone quarry. Dr. Risley School resided in the home and finally Matt Peulen, County Commissioner. Dr. Risely was the first superintendent of School District 60 and served in that position for 25 years. Risley Middle School, within the City's East Side Neighborhood is his namesake. Mr. Peulen was a County Commissioner for eight years.

Staff finds that the site does have direct association with persons of a local level of significance.

2A Embody distinguishing characteristics of an architectural style or type

According to the site form, this home embodies the distinctive characteristics of a style for its affiliation with the Arts and Crafts, Craftsman Style which would become the primary housing style in the 1920s. The home maintains the window placement, roof form, and distinctive front gable porch with exposed rafter tails and battered columns indicative of the Craftsman style. It is unknown if the stucco was original or added later, stucco was beginning to be widely used in the late teens and into the 1920s, therefore it could be an original feature of the home. The property also contains a 12' by 20' garage that is architecturally compatible with the residence. The garage is constructed with brick that has a Flemish bond and would have been an early house to be constructed with the automobile in mind. Though modified with additions to the rear, the home still displays its character defining features as a Craftsman Bungalow as noted in the site form on item number 43.

Staff finds the site eligible under 2A as a good example of the Craftsman architectural style.

Changes to the Building and Property

According to the site form additions were added to the property and stained-glass windows were added to some frames. The stucco on the main body of the home may be original or added later. There was a small addition to the rear of the home that is not visible from the street. Grass in the rear yard was replaced with flagstones at some point.

Zoning District

The site and surrounding area are entirely zoned R-2 and the surrounding neighborhood is mostly zoned R-2 and comprised of pre 1950's single family homes.

City's Comprehensive Plan Compliance

The Edward teller House is located in the Urban Neighborhoods future land use area according to the Pueblo Regional Comprehensive Plan adopted in July of 2022. Urban Neighborhoods are characterized by single family detached and attached homes, duplexes and townhomes with supporting land uses such as accessory dwelling units; small scale commercial; retail and services; parks; schools; libraries; community gardens; and other complimentary uses. According to the Comprehensive Plan, Urban Neighborhoods are those generally built before 1950 and are centrally located neighborhoods.

The Regional Goals and Policies section of the Comprehensive Plan addresses historic preservation efforts in the City. *Policy 4.1.3 Inventory of Cultural Resources* encourages the expansion the Pueblo Inventory of Cultural Resources and the measurer of success on page 54 encourages an increasing trend in local landmarks. Landmarking the Edward Teller House directly addresses a policy and goal in the Pueblo Regional Comprehensive Plan with respect to planning and historic preservation by increasing the number of historic landmarks.

Recommended Action:

Staff recommends the Historic Preservation Commission forward recommendation of approval to the Planning and Zoning Commission and designate Edward C. Teller house as a local Pueblo landmark since it meets criterion 4-14-8, (a), (1), a; (a),(2),a.

Exhibits

- A. Maps
- B. Photographs
- C. Application signature sheet and OpenGov document, full nomination is attached via PDF, and state inventory site form, Obituray for Matt Peulen.

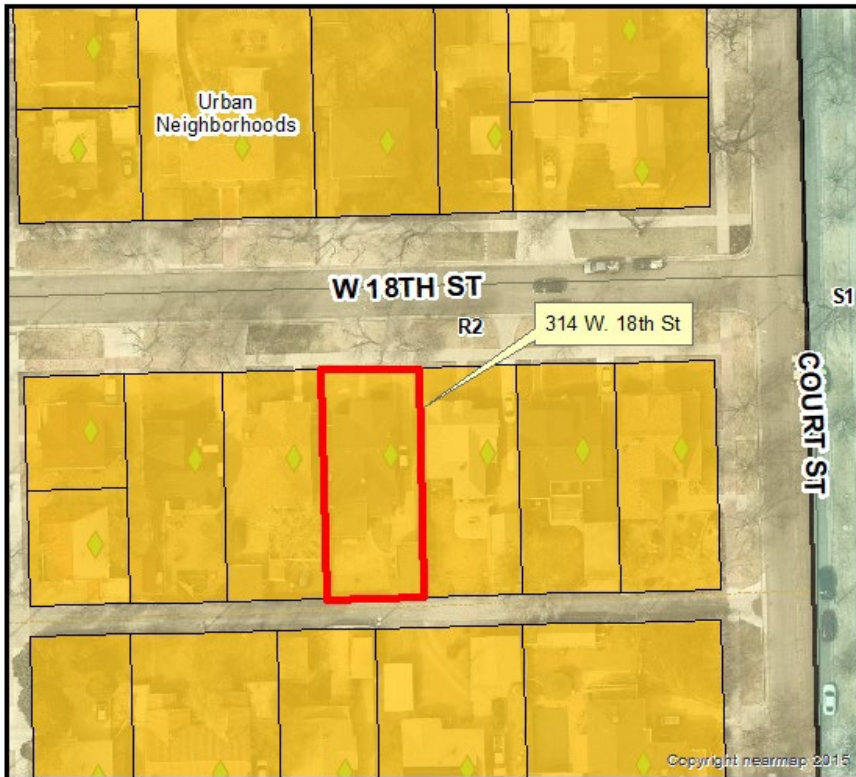
EXHIBIT A. MAPS



A1. Aerial image of the property



A2. Zoning map of the property



A3. Comprehensive Plan Designation

EXHIBIT B. SITE PHOTOGRAPHS



View of the façade facing Pine Street



Western façade overview



Façade close up.





Eastern façade close up



View of garage looking south.



South facing elevation.



C. APPLICATIONS AND ATTACHEMNTS



City of Pueblo PLACE

04/13/2023

23-73

Historic Preservation Commission

Status: Active**Date Created:** Apr 13, 2023**Applicant**

Charity Krow
charitykrow@gmail.com
314 W. 18th Street
Pueblo, CO 81003
7194373094

Primary Location

314 W 18TH ST
PUEBLO, CO 81003

Owner:

Charity Krow
314 314 W 18TH ST Pueblo, CO 81003

Internal**Case Number**

HPC-23-05

Planner Assigned

--

Continuances

--

Number of Posters

--

Number of Postcards/Mailings

--

Newspaper Notice Cost

--

Public Notice Costs must be paid by:

--

Public Notice zoning poster must be displayed by:

--

HPC Hearing Information**HPC Hearing Date**

06/21/2023

HPC Hearing Results

--

Check box if hearing is a Special Requested Hearing☐**Planning & Zoning Commission Information****P&Z Hearing Date**

--

P&Z Hearing Results

--

Check box if hearing is a Special Requested Hearing☐**City Council Information****Council First Reading**

--

Council Final Reading

--

Council Hearing Results

--

Effective Date

--

Ordinance Number

--

Recording Number

Application Information

Application Type

Historic Nomination

Residential or Non-Residential?

Residential

Nomination for Local Historic Designation Eligibility Criteria

Nomination for Local Historic Designation

Name of Property and/or Historic Name

Teller Edward C. House

Present Use

Residential

Historic Use

Residential

Site Number (issued by State of Colorado)

5 PE. 5762

Are you designating a historic district?

No

What is the Applicant's Affiliation/Interest in Property

Owner

Owner Consent to Designation

Property Owner Signature

Charity Krow

04/13/2023

Attachments



Historical Significance.pdf

Uploaded by Charity Krow on Apr 13, 2023 at 12:23 pm



Sources.pdf

Uploaded by Charity Krow on Apr 13, 2023 at 12:23 pm



Eligibility Criteria.pdf

Uploaded by Charity Krow on Apr 13, 2023 at 1:00 pm



IMG-7066.jpg

Uploaded by Charity Krow on Apr 13, 2023 at 1:00 pm



IMG-7059.jpg

Uploaded by Charity Krow on Apr 13, 2023 at 1:01 pm



History of 314 W. 18th.pdf

Uploaded by Charity Krow on Apr 13, 2023 at 1:01 pm

History

Date	Activity
Apr 13, 2023 at 12:10 pm	Charity Krow started a draft of Record 23-73
Apr 13, 2023 at 12:12 pm	Charity Krow altered Record 23-73, changed ownerEmail from "" to "charitykrow@gmail.com"

Date	Activity
Apr 13, 2023 at 12:12 pm	Charity Krow altered Record 23-73, changed ownerName from "KROW CHARITY L" to "Charity Krow"
Apr 13, 2023 at 12:12 pm	Charity Krow altered Record 23-73, changed ownerPhoneNo from "" to "7194373094"
Apr 13, 2023 at 12:12 pm	Charity Krow altered Record 23-73, changed ownerPostalCode from "81003-2603 " to "81003"
Apr 13, 2023 at 12:12 pm	Charity Krow altered Record 23-73, changed ownerStreetNo from "" to "314 "
Apr 13, 2023 at 1:01 pm	Charity Krow added attachment IMG-7059.jpg to Record 23-73
Apr 13, 2023 at 1:01 pm	Charity Krow added attachment History of 314 W. 18th.pdf to Record 23-73
Apr 13, 2023 at 1:01 pm	Charity Krow submitted Record 23-73
Apr 13, 2023 at 1:02 pm	approval step Fee Review was assigned to Planning Front Counter on Record 23-73
Apr 13, 2023 at 1:02 pm	changed the deadline to Apr 15, 2023 on approval step Fee Review on Record 23-73
Apr 13, 2023 at 4:25 pm	Cindy Capritta assigned approval step Fee Review to Cindy Capritta on Record 23-73
Apr 13, 2023 at 4:33 pm	Cindy Capritta changed Case Number from "" to "HPC-23-05" on Record 23-73
Apr 13, 2023 at 4:33 pm	Cindy Capritta changed HPC Hearing Date from "" to "06/21/2023" on Record 23-73
Apr 13, 2023 at 4:35 pm	Cindy Capritta approved approval step Fee Review on Record 23-73

Timeline

Label	Status	Activated	Completed	Assignee	Due Date
 Fee Review	Complete	Apr 13, 2023 at 1:01 pm	Apr 13, 2023 at 4:35 pm	Cindy Capritta	04/15/2023
 Application Fee	Active	Apr 13, 2023 at 4:35 pm	-	-	-
 Intake Review	Inactive	-	-	-	-
 Case Assignment	Inactive	-	-	-	-
 Land Use Tech Review	Inactive	-	-	-	-
 Planning (Zoning) Initial Review of Submittal	Inactive	-	-	-	-
 Regional Building Department Notification	Inactive	-	-	-	-
 Public Notice	Inactive	-	-	-	-
 Public Notice Memo	Inactive	-	-	-	-
 Public Notice Fee	Inactive	-	-	-	-
 Planning (Zoning) Review	Inactive	-	-	-	-
 Staff Report and Agenda Distribution	Inactive	-	-	-	-
 HPC Hearing Results	Inactive	-	-	-	-
 Planning & Zoning Commission Hearing Results	Inactive	-	-	-	-
 Property Owner Notification	Inactive	-	-	-	-
 City Council Hearing	Inactive	-	-	-	-
 City Clerk and Regional Building Notification	Inactive	-	-	-	-
 Recording	Inactive	-	-	-	-

COLORADO CULTURAL RESOURCE SURVEY

Architectural Inventory Form

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Date _____ Initials _____

____ Determined Eligible-National Register

____ Determined Not Eligible - National Register

____ Determined Eligible - State Register

____ Determined Not Eligible - State Register

____ Need Data

____ Contributing to eligible National Register District

____ Noncontributing to eligible National Register District



I. IDENTIFICATION

1. Resource number: **5PE.5762**
2. Temporary resource number:
3. County: **Pueblo**
4. City: **Pueblo**
5. Historic building name: **Teller, Edward C., House**
6. Current building name: **Peulen, Matt J. and Margaret, House**
7. Building address: **314 W 18th Street**
8. Owner name: **Matt J. and Margaret Peulen**
- Owner organization:
- Owner address: **314 W 18th St**
Pueblo, CO 81003

Parcel number(s):

525131011

- | | | | |
|---|---|--|---|
| 44. National Register eligibility field assessment: | ☐ Individually eligible | ☒ Not eligible | ☐ Need data |
| Local landmark eligibility field assessment: | ☒ Individually eligible | ☒ Not eligible | ☒ Need data |

Architectural Inventory Form

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II. GEOGRAPHIC INFORMATION

9. P.M.: **6th** Township: **20S** Range: **65W**
NW 1/4 of **NW 1/4** of **SE 1/4** of **NE 1/4** of Section **25**
10. UTM reference zone: **13**
Easting: **534052** Northing: **4237114**
11. USGS quad name: **Northeast Pueblo** Scale: **7.5**
Year: **1961 (Photorevised 1970 and 1974)**
12. Lot(s) : **Lots 7 and 8; Block 24**
Addition: **Henry C. Brown's Addition** Year of addition: **1889**
13. Boundary description and justification:
The boundary, as described above, contains but does not exceed the land historically associated with this property.
Metes and bounds exist: ☐

III. ARCHITECTURAL DESCRIPTION

14. Building plan (footprint, shape): **Rectangular Plan**
Other building plan descriptions:
15. Dimensions in feet (length x width): **1,161 square feet**
16. Number of stories: **1**
17. Primary external wall material(s): **Stucco** Other wall materials:
Brick
18. Roof configuration: **Gabled Roof/Cross Gabled Roof**
Other roof configurations:
19. Primary external roof material: **Asphalt Roof**
Other roof materials:
20. Special features:
Fence
Chimney
Porch
Window/Stained Glass
21. General architectural description:
Oriented to the south, this house rests on a concrete foundation, with 1-beside-1-light, aluminum-frame, sliding-sash basement windows. A buff-colored stucco clads the exterior walls. A battered, glazed, brown-brick veneer covers the walls from the foundation to the window sills of the tallest windows. Brown-painted, wood, square-cut wood shingles cover the gables. Windows are generally 9-over-1-light, double-hung sash, with white-painted wood frames and aluminum-frame storm windows. All windows have brick sills. A single-light picture window dominates the east half of the asymmetrical front (north) façade. Flanking either side of hearth and chimney engaged to the north end of the east elevation are stained-glass hopper or awning windows. Protruding south of these windows is a rectangular bay, with its own shed roof and knee-bracket supports. A shed-roofed addition across the rear (south) elevation hosts 1-beside-1-light, aluminum-frame sliding-sash windows. A front-gabled porch spans the eastern two-thirds of the facade. The porch has battered, brick kneewalls and battered, stucco-covered piers. Three steps, covered in terra cotta tiles, approach the porch on the west end of its north elevation. The principal doorway opens near the center of the facade. It hosts a 2-panel oak door, with an oval, leaded-glass light. Protecting it is a white, aluminum-frame storm door. Gray-brown asphalt shingles cover the cross-gabled main roof and all other roof surfaces. The rafter and perlin ends are exposed. A brick chimney protrudes near the apex of the roof, from the south-facing slope.

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22. Architectural style: **Late 19th And Early 20th Century American Movements/Craftsman**

Other architectural styles:

Building type: **Bungalow**

23. Landscape or special setting features:

This property is located on terrain sloping downward from northeast to southwest, with an elevation of around 4,700 feet above mean sea level. The neighborhood features modest and large, one- and two-story houses. Setbacks from West 18th Street are generally the same on this block. This property is situated on the south side of West 18th Street, between 310 West 18th Street to the east and 320 West 18th Street to the west. Separating the street from the sidewalk is a grass strip. A planted-grass yard, with mature landscaping, covers the lot. Surrounding the backyard is a vinyl fence. A concrete, 2-track driveway runs along the east side of the house, connecting the garage to West 18th Street. The area between the tracks has been filled with bricks set in a herringbone pattern.

24. Associated buildings, features or objects:

1: Type: **Garage**

Describe: **A single-car garage is located southeast of the house. Oriented to the north, the building rests on a concrete foundation. The walls consist of dark-red bricks set in a Flemish bond. White-painted, horizontal wooden composition siding covers a shed-roofed addition across the rear (south) elevation. Dominating the front (north) elevation, offset to the west, is a fiberglass, overhead-retractable garage door. Appearing beneath a segmental arch in the center of the east elevation is a 1-over-1-light, double-hung sash window. The center of the addition's south elevation has a 3-light hopper or awning window. Opening in the south end of the west elevation is a paneled wood door. Gray sheets of asphalt cover the main shed roof, which is surrounded on 3 sides by a parapet.**

IV. ARCHITECTURAL HISTORY

25. Date of Construction: Estimate: **1918** Actual:
Source of Information: **Pueblo City Directory. Pueblo, Co.; Salt Lake City; Kansas City, Mo.; and others: R.L. Polk & Co, consulted 1886 through 2003.**

26. Architect: **unknown**

Source of information:

27. Builder: **unknown**

Source of information:

28. Original Owner: **Edward C. Teller**

Source of information: **Pueblo City Directory. Pueblo, Co.; Salt Lake City; Kansas City, Mo.; and others: R.L. Polk & Co, consulted 1886 through 2003.**

29. Construction history:

According to Pueblo County Tax Assessor records, this building was constructed in 1936. However city directory listings for this address date to 1918. The building has had at least 2 additions to the rear elevation, the most recent of which dates to the 1970s. The current owners also installed the stained-glass windows.

30. Location: **original** Date of move(s):

V. HISTORICAL ASSOCIATIONS

31. Original use(s): **Single Dwelling**32. Intermediate use(s): **Single Dwelling**33. Current use(s): **Single Dwelling**34. Site type(s): **Residence**

35. Historical background:

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35. Historical background:

The first resident of this house, constructed around 1918, was Edward C. Teller, vice president of a limestone and quarry company. He was born in Colorado around 1892. His wife, Florence, was also born in Colorado, around 1893. They had at least two children: Laura and Florence.

By 1925, the owner and resident was Turner S. Underwood, a Certified Public Accountant. He came to Pueblo in 1917. With his wife, Kathryn, Turner had a son, Roger D. Underwood, who died in 1936. The Underwoods remained at this address until around 1940. Kathryn died in 1951 and Turner on March 3, 1961.

Dr. James Haller Risley purchased this property around 1940 and moved here from 409 West 13th Street (5PE.5635). He resided here until his death more than a decade later. He moved to Pueblo in 1921 and was the superintendent of Pueblo County School District No. 1 for 25 years, retiring in 1946. With his wife, Anna Risley, James had two daughters, Kathryn McCafferty and Virginia Bagnall. James Risley died on February 2, 1953. Anna remained here until her own death on May 9, 1958.

Around 1960, the resident was George W. Sperlak. Matt J. and Margaret Peulen, the current owners and residents, acquired the property in 1971.

36. Sources of information:

Pueblo County Office of Tax Assessor. Property information card [internet].

Pueblo City Directory. Pueblo, Co.; Salt Lake City; Kansas City, Mo.; and others: R.L. Polk & Co, consulted 1886 through 2003.

Sanborn Fire Insurance Maps (for Pueblo, Colorado). New York: Sanborn Map and Publishing Co., 1883, 1886, 1889, 1893, 1904-05, 1904-51, and 1904-52.

"Underwood (Turner S.)" [obituary]. Pueblo Chieftain, 4 March 1961, p. 5A.

"Risley (James Haller)" [obituary]. Pueblo Chieftain, 3 February 1953, p. 3.

"Risley (Anna D.)" [obituary]. Pueblo Chieftain, 10 May 1958, p. 5.

U.S. Census of 1920. Precinct 11, Pueblo, Pueblo County, Colorado. Sheet 6B.

Peulen, Matt J. Interview with Adam Thomas, 27 July 2005.

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VI. SIGNIFICANCE

37. Local landmark designation: Yes ☐ No ☒

Designation authority:

Date of designation:

38. Applicable National Register criteria:

- ☐ A. Associated with events that have made a significant contribution to the broad pattern of our history.
- ☐ B. Associated with the lives of persons significant in our past.
- ☒ C. Embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or that possess high artistic values, or represents a significant and distinguished entity whose components may lack individual distinction.
- ☒ D. Has yielded, or may be likely to yield, information important in history or prehistory.
- ☒ Qualifies under Criteria Considerations A through G (see manual).
- ☒ Does not meet any of the above National Register criteria.

Pueblo Standards for Designation:

1a. History☒ Have direct association with the historical development of the city, state, or nation; or1b. History☐ Be the site of a significant historic event; or1c. History☐ Have direct and substantial association with a person or group of persons who had influence on society.2a. Architecture☐ Embody distinguishing characteristics of an architectural style or type; or2b. Architecture☐ Be a significant example of the work of a recognized architect or master builder, or2c. Architecture☐ Contain elements of architectural design, engineering, materials, craftsmanship, or artistic merit which represent a significant or influential innovation;2d. Architecture☐ Portray the environment of a group of people or physical development of an area of the city in an era of history characterized by a distinctive architectural style.3a. Geography☐ Have a prominent location or be an established, familiar, and orienting visual feature of the contemporary city, or3b. Geography☐ Promote understanding and appreciation of Pueblo's environment by means of distinctive physical characteristics or rarity; or3c. Geography☐ Make a special contribution to Pueblo's distinctive character.Not Applicable☐ Does not meet any of the above Pueblo landmark criteria.39. Area(s) of Significance: **Architecture**40. Period of Significance: **ca. 1918**41. Level of significance: National: ☐ State: ☐ Local: ☒

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42. Statement of significance:

This property is historically significant under Pueblo Local Landmark criterion 1A for its association with the 20th century development of Pueblo's North Side Neighborhood, when the city's professional and entrepreneurial class moved northward to construct large homes, like this one, in the latest contemporary suburban styles. As well, the house is architecturally significant under National Register criterion C (Pueblo Local Landmark criterion 2A) as an example of the Craftsman style. However, the levels of architectural and historical significance, combined with physical integrity, are not to the extent that this property would qualify for individual listing in the National Register of Historic Places, the Colorado State Register of Historic Properties, or as a City of Pueblo Landmark. It is, nonetheless, a contributing resource within any potential historic district.

43. Assessment of historic physical integrity related to significance:

Constructed around 1918, this house exhibits a moderate level of physical integrity relative to the seven aspects of integrity as defined by the National Park Service and the Colorado Historical Society: location, setting, design, materials, workmanship, feeling, and association. This rear elevation has been modified and added to, as recently as the 1970s. However, the additions are isolated to the rear elevation. This property retains sufficient physical integrity to convey its architectural and historical significance.

VII. NATIONAL REGISTER ELIGIBILITY ASSESSMENT

44. National Register eligibility field assessment: ☐ Individually eligible ☒ Not eligible ☐ Need data
 Local landmark eligibility field assessment: ☐ Individually eligible ☒ Not eligible ☐ Need data
45. Is there National Register district potential? Yes ☒ No ☐
- Discuss: **Pueblo's North Side Neighborhood represents the evolution of the city's professional middle and upper classes. Its diversity of architectural styles and forms directly represents the city's changing economic and cultural climates. As well, the neighborhood is distinctive because it appears to have evolved independently of the area's dominant industry, steel manufacturing.**
- If there is National Register district potential, is this building contributing: Yes ☒ No ☐ N/A ☐
46. If the building is in existing National Register district, is it contributing: Yes ☐ No ☐ N/A ☒

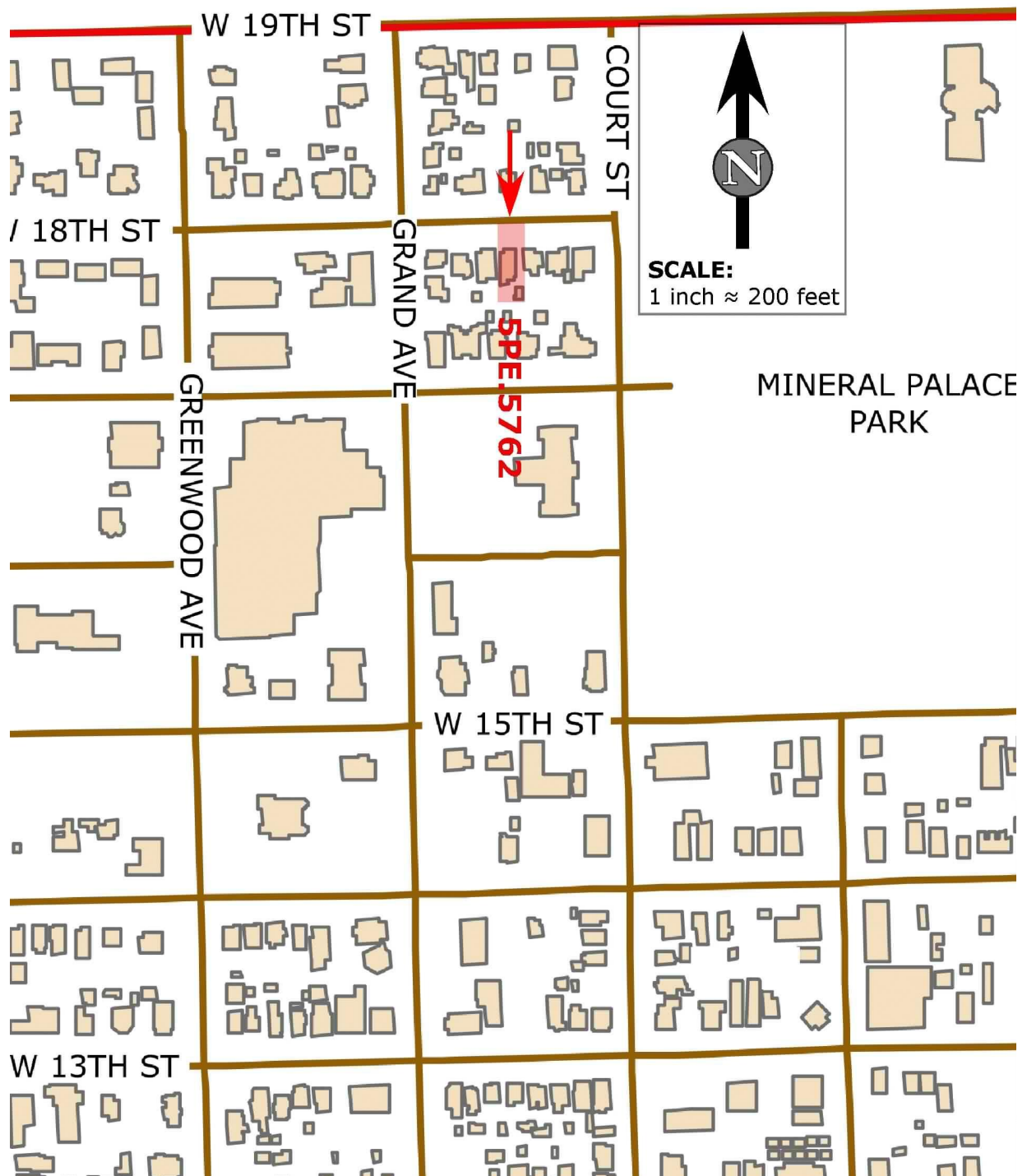
VIII. RECORDING INFORMATION

47. Photograph numbers): **CD-ROM Photo Disc: North Side Photos**
File Name(s): 18thstw314
- Negatives filed at: **Special Collections**
Robert Hoag Rawlings Public Library
100 East Abriendo Avenue
Pueblo, CO 81004-4290
48. Report title: **Pueblo North Side Neighborhood Survey**
49. Date(s): **07/27/05**
50. Recorder(s): **Adam Thomas**
51. Organization: **Historitecture, L.L.C.**
52. Address: **PO Box 419**
Estes Park, CO 80517-0419
53. Phone number(s): **(970) 586-1165**

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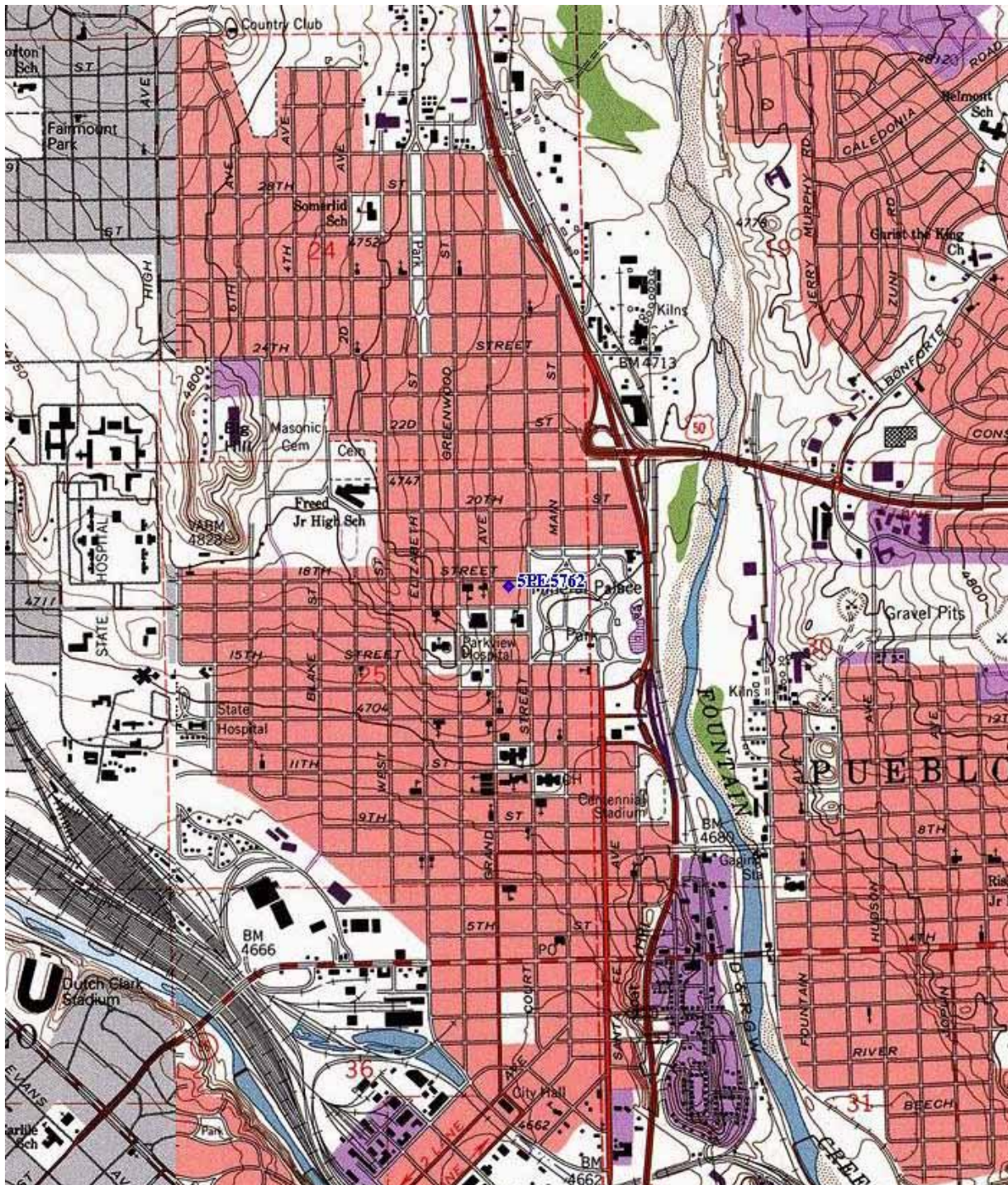
SITE SKETCH MAP



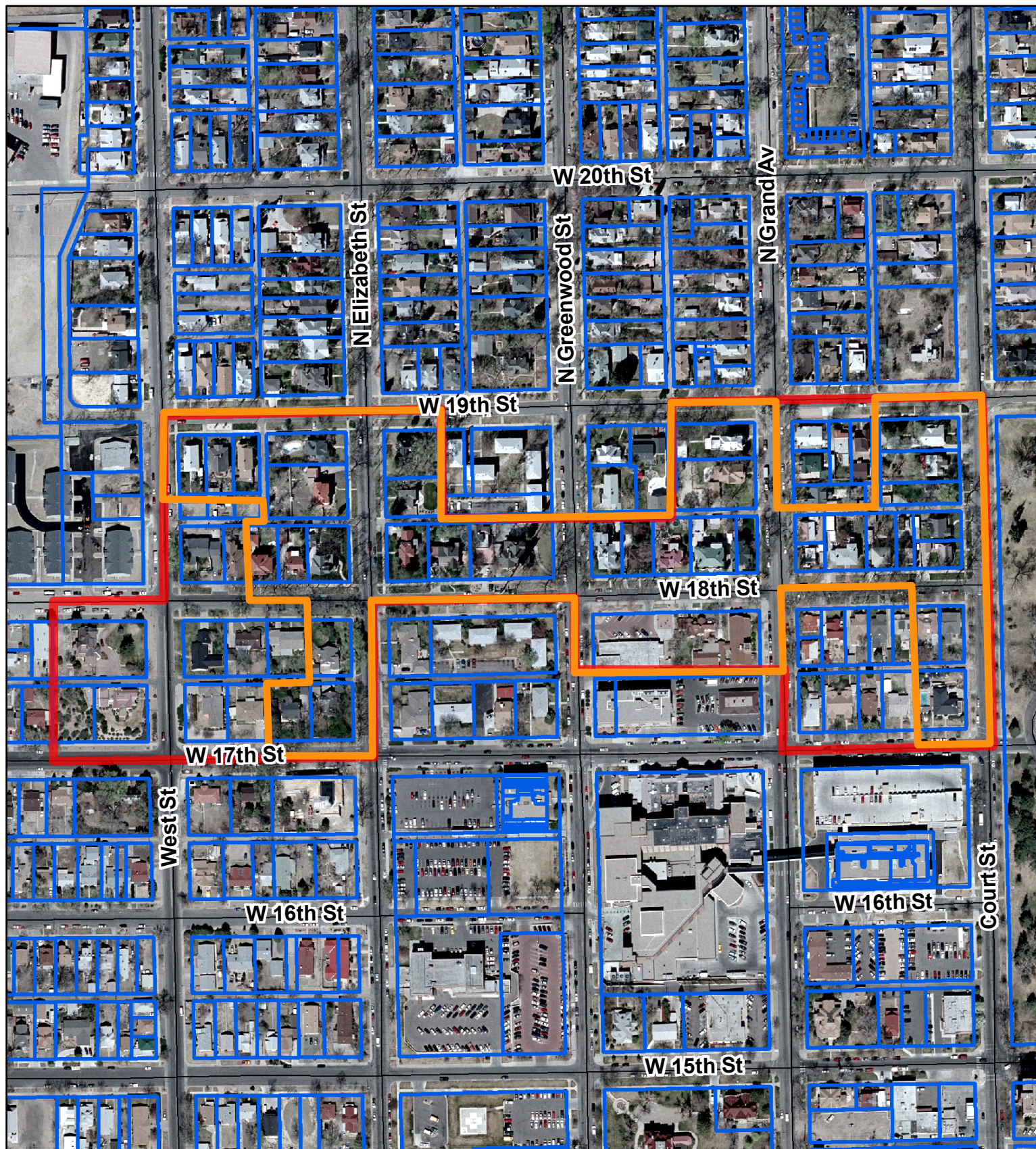
Architectural Inventory Form

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LOCATION MAP



Source: U.S. Geological Survey 7.5' Northeast Pueblo topographic quadrangle - 1961 (Photorevised 1970 and 1974)



**Figure 1. Proposed North Side Historic District
Original and Recommended Revised Boundary**

Map Generated in Arcview 9.2

Parcel information aquired from Pueblo County's

GIS Database September 2007 (9/24/2007)

Wade Broadhead, City of Pueblo, Land Use Department



500
Feet

Legend

- Original proposed boundary
- Staff recommended revised boundary
- Parcels



OBITUARY

Matt John Peulen

NOVEMBER 8, 1929 - NOVEMBER 20, 2021



IN THE CARE OF

T.G. McCarthy Funeral Home

He was preceded in death by his parents, wife Margaret Peulen, son Alex, and his siblings. He is survived by his children Kathleen (Gary) Lochrie, Michael (Anna) Peulen, Rose (Jeff) Jubert, and Mark (Michelle) Peulen, and daughter-in-law Brenda Peulen; grandchildren Kyle (Rose), Chad (Mariah), Alison, Adam, Lia (Elias), Matt, Jade, Dante, and Zach.

Matt held the office of Pueblo County Commissioner for 8 years and was active in several community organizations. He worked for CF&I for 32 years as a millwright, and was actively involved with the Steelworkers Union for several years. He loved his wife and family, and a part of his heart was always in his homeland of Holland.

Special thanks to his caregivers Nanette, Jackie, and Jessica and their families.

A visitation will be held Wednesday December 1, 2021 at 4pm, with a rosary at 6pm at TG McCarthy Funeral Home. Funeral Mass will be Thursday December 2, 2021 at 9:30am at The Cathedral of the Sacred Heart, with interment at Roselawn Cemetery.

PALLBEARERS

Michael Peulen
Pallbearer

Matt Peulen
Pallbearer

Mark Peulen
Pallbearer

Zach Peulen
Pallbearer

Jeff Jubert
Pallbearer

Dante Jubert
Pallbearer

Gary Lochrie
Pallbearer

Kyle Lochrie
Honorary Pallbearer

Chad Lochrie
Honorary Pallbearer

DONATIONS

Pueblo County Courthouse Lighting
Ceremony

Suzanne Kuehn
Chair

Jocelyn Martinez
Vice Chair

Anthony Perko
Secretary



Laurel Campbell

Amy Scoby

Jan Schraner

Heather Norton

211 East D Street | Pueblo, Colorado 81003 | Tel 719-553-2259 | Fax 719-553-2359 | TTY 719-553-2611 | www.pueblo.us

HPC-23-05

TO: City of Pueblo, Planning and Zoning Commission

FROM: Wade Broadhead, Sr. Planner

THROUGH: Scott Hobson, Acting Director of Planning and Community Development

DATE: July 12, 2023

SUBJECT: Landmark designation review to be forwarded onto City Council

APPLICANTS: Charity Krow, Homeowner

PROPERTY OWNER: Same

LOCATION: 314 W. 18th St. Edward Teller House

REQUEST: To review the Historic Preservation Commission recommendation for 314 W. 18th to be designated as a local Landmark and forward a recommendation to City Council.

Analysis:

The property owner and applicant is requesting designation of 314 W. 18th Street, Edward Teller House, as a local Landmark. The applicant provided documentation to demonstrate that the residence was constructed in 1918 and associated with Edward Teller, quarry owner; Dr. Risley, Pueblo, Superintendent of Pueblo City Schools, and Matt Peulen, two-time County Commissioner. The applicant is seeking designation to honor it's past as well as to utilize the state tax credit for rehabilitation. The home was also considered for inclusion into the North Side Historic District in 2007; however, the property owner, at that time, requested the property be removed from the district.

The residence qualifies under landmark Criteria 1A, significant events/people, for having direct association with Edward Teller, Matt Peulen, and especially Dr. Risely who was the first superintendent of District 60 and published books on education theory nationally. The building also qualifies for nomination under criteria 2A, architecture, as a good example of a Craftsman style home. The subject property is located in the 2022, Pueblo Comprehensive Plan Urban Neighborhoods Future Land Use area, and the landmarking is compatible with the goals of the plan, which highlights the importance of expanding local Landmarks. A detailed review of the Comp Plan compliance is discussed in the staff report, for case number HPC-23-05.

The planning and zoning commission is required to review three items related to historic landmark designation or historic districts according to 4-14-8(g):

Zoning Requirements

The property is zoned R-2, Single Family Residential and contains a single-family residential use. No city initiated, or neighborhood initiated, rezonings or large-scale use changes are under consideration for the street where this residence is located.

Projected Public Improvements

The area along 18th street has served as a single-family neighborhood since the late 1800s with appropriate public improvements. There are no anticipated changes other than ongoing pipe, road, and infrastructure maintenance.

Existing or proposed renewal and development plans

There is no urban renewal project area in the immediate area and there are no pending initiatives for renewal projects along 18th street in the 300 block. While Parkview Hospital nearby is constantly upgrading facilities, the 300 block of 18th street is a stable residential block. The historic designation will create a financial incentive for the homeowner to maintain and redevelop her home in keeping with the historic character.

Applicable Regulations and Prior Action

Pueblo Municipal Code Section 4-14-8(g), the City's Historic Preservation Commission "HPC" recommended approval at their June 21, 2023, meeting by a vote of 5-0. Jocelyn Martinez, moved to approve the application, seconded by Laurel Campbell for designation for the Edward Teller House based on the findings for significance listed in PMC 4-14-8(a)(1)(a) social history and (a)(2)(b), related to architecture.

Recommendation:

If the Planning and Zoning Commission finds the proposed local Landmark furthers the goals of the 2022, Pueblo Regional Comprehensive Plan, zoning requirements, projected public improvements, and existing and proposed renewal and development plans applicable to the immediate neighborhood, a recommendation of approval to City Council is appropriate. Recommends that the Planning and Zoning Commission approve the Historic Preservation Commission's recommendation of approval be forwarded to City Council that 314 W. 18th St. meets the criteria to be designated a landmark.

**HISTORIC PRESERVATION COMMISSION
CITY OF PUEBLO**

NOTICE OF PUBLIC HEARING

Take notice that at a regular meeting to be held at 1:30 P.M., on the 21st day of June 2023, at **1 City Hall Place, Pueblo, Colorado**, the Historic Preservation Commission will hear the following application(s):

HPC 23-05

314 W. 18th St. / The Edward Teller House

For Designation of a Landmark as provided in the Historic Preservation Ordinance (Title IV, Chapter 14, of the Code of Ordinances, City of Pueblo) as the same affects the property situated in the City of Pueblo, County of Pueblo and State of Colorado, legally described as Lots 7 and 8, Block 24, Brown's Addition known as **314 W. 18th Street**.

A **Nomination for Designation of a Landmark** if it qualifies for significance in criteria of history (criterion 1A), architecture (criterion 2A)

A draft of the nomination will be on file in the Department of Planning and Community Development and will be available for viewing and printing, typically the Friday prior to the meeting.

The Historic Preservation Commission meeting will be held on June 21, 2023, at 1:30 p.m., and by Zoom: Meeting ID: 790 774 9677, Passcode: 25436, Telephone: 1 346 248 7799 US (Houston) or in-person at 1 City Hall Place (3rd Floor City Council Chambers).

Any person may appear before the Historic Preservation Commission at the time and place stated above to be heard on the proposed nomination for designation of a landmark. Individuals who require special arrangements to participate are encouraged to contact the Department of Planning & Community Development at least 72 hours in advance.

Questions may be directed to the attention of Historic Preservation Commission staff.



Scott Hobson
Land Use Administrative Official
719-553-2259



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 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
Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE AMENDING THE FY 2023 STAFFING ORDINANCE BY CONVERTING A VACANT CIVIL ENGINEER-CONSTRUCTION POSITION WITHIN THE PUBLIC WORKS DEPARTMENT TO A NEW CLASSIFICATION OF CONSTRUCTION MANAGER

SUMMARY:

The Public Works Department, with Mayor Gradisar's approval, requests to convert a currently vacant position in the Public Works Department from the classification of Civil Engineer-Construction to a new classification of Construction Manager 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 Public Works Department requests to convert a currently vacant position of Civil Engineer/ Construction to a new classification of Construction Manager.

The Public Works Department requires the services of a professional construction manager to lead the construction management team within the Engineering Division. That team includes the City's Associate Field Engineers and Construction Inspectors who are responsible for day-to-day oversight of City construction projects and inspection/acceptance of public improvements constructed by private developers and builders.

The proposed Construction Manager position is being converted from the existing Civil Engineer/Construction position which currently requires the incumbent to be a licensed professional engineer (PE). The Engineering Division already has three other positions

that require the incumbent to be licensed - the Engineering Manager, the Deputy Director, and the Director of Public Works. The Civil Engineer/Construction classification will be abolished as a part of this conversion.

If the conversion is approved, the Construction Manager would report directly to the Engineering Manager. Based on the fact that the proposed Construction Manager position will be working under the direct supervision of a licensed professional engineer, there is no need to require that the Construction Manager possess this same PE credential.

By modifying the education/experience/credential requirements for the position through this conversion, the pay range for the position can be adjusted and the City will realize salary savings. In addition, adjusting the minimum qualifications will create new pathways and opportunities for promotion within the Department that would have otherwise been restricted only to licensed professional engineers.

FINANCIAL IMPLICATIONS:

This is a zero net change to staffing levels within the Public Works Department and there is no cost associated with this classification change. The City's General Fund will realize a cost savings of approximately \$32,000 annually if this vacancy conversion is approved.

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

The no action alternative would be to retain the current staffing level which would eliminate any opportunity to re-balance staff workload and enhance department efficiencies.

RECOMMENDATION:

Approval of this Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE AMENDING THE FY 2023 STAFFING
ORDINANCE BY CONVERTING A VACANT CIVIL ENGINEER-
CONSTRUCTION POSITION WITHIN THE PUBLIC WORKS
DEPARTMENT TO A NEW CLASSIFICATION OF
CONSTRUCTION MANAGER

WHEREAS, it is necessary to create a new classification of Construction Manager for ultimate efficiency and functionality for the Public Works Department; NOW, THEREFORE,

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

SECTION 1.

The following section captioned "Public Works Engineering" of Ordinance No. 10363, being the 2023 Staffing Ordinance, is amended as follows:

The following positions shall be authorized for FY 2023:

Public Works - Engineering

Director of Public Works	1
Deputy Director Public Works	1
Engineering Manager	1
[Civil Engineer/Construction]	[1]
Civil Engineer/Public Works	1
<u>Construction Manager</u>	<u>1</u>
Associate Engineer II	2
Associate Field Engineer	3
Associate Engineer I	3
Public Works Asset Coordinator	1
Public Works Projects Coordinator	1
Survey Party Chief	1
Surveyor	1
Senior Planner	1
Construction Inspector	4
Administrative Technician	2
Total	24

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 any 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 Public Works Department and shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

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

☐ Ordinance re-adopted on a vote of _____, on _____

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

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 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
Andrew Hayes, Public Works Director

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 ESTABLISHING THE PAY SCALE FOR CONSTRUCTION MANAGER AND ABOLISHING THE PAY SCALE FOR CIVIL ENGINEER-CONSTRUCTION

SUMMARY:

Attached for consideration is an amended Pay Plan Ordinance which reflects the addition of the pay rate and salary schedule for the classification of Construction Manager. The position will be funded by the Public Works Department using General Fund dollars.

Further, this ordinance will abolish the pay scale for the Civil Engineer/Construction classification as this classification will be replaced by the Construction Manager classification.

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:

The Public Works Department requests to convert an existing, vacant Civil Engineer-Construction position within the Public Works Engineering Division to a new classification of Construction Manager.

The Public Works Department requires the services of a professional construction manager to lead the construction management team within the Engineering Division. That team includes the City's Associate Field Engineers and Construction Inspectors who are responsible for day-to-day oversight of City construction projects and

inspection/acceptance of public improvements constructed by private developers and builders.

The proposed Construction Manager position is being converted from the existing Civil Engineer/Construction position which currently requires the incumbent to be a licensed professional engineer (PE). The Engineering Division already has three other positions that require the incumbent to be licensed - the Engineering Manager, the Deputy Director, and the Director of Public Works.

This position will be a classified position within the City and subject to all Civil Service rules with respect to hiring and will be a Class B Administrative classification not within a bargaining unit.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

The suggested change establishes the 2023 salary range for the classification of Construction Manager. If this ordinance is not approved, no salary range will be associated with the classification and the position cannot be filled.

RECOMMENDATION:

Approval of this Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

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 ESTABLISHING THE PAY SCALE FOR CONSTRUCTION MANAGER AND ABOLISHING THE PAY SCALE FOR CIVIL ENGINEER-CONSTRUCTION

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

SECTION 1.

Section 6-5-16 of the Pueblo Municipal Code referencing the Fiscal Year 2023 pay scale for the classification of Construction Manager is established and enacted as follows:

6-5-16. Schedule, classification, work week and monthly salary.

The following shall constitute:

B. The monthly pay range for the classification of Construction Manager

<i>CLASS TITLE</i>	<i>BASE SALARY</i>	<i>MERIT PAY RANGES GRANTED UNDER SECTION 6-5-1(B)</i>					
(B) ADMINISTRATIVE							
Construction Manager	<u>5330.13</u>	<u>5510.55</u>	<u>5719.67</u>	<u>5912.80</u>	<u>6105.95</u>	<u>6303.86</u>	<u>6509.79</u>

SECTION 2.

Section 6-5-16 of the Pueblo Municipal Code referencing the Fiscal Year 2023 pay scale for the classification of Civil Engineer/Construction is abolished as follows:

<i>CLASS TITLE</i>	<i>BASE SALARY</i>	<i>MERIT PAY RANGES GRANTED UNDER SECTION 6-5-1(B)</i>					
(B) ADMINISTRATIVE							
Civil Engineer/Construction	7595.21	7850.67	8153.91	8428.49	8704.63	8988.77	9282.50

SECTION 3.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with the intent of this Ordinance to implement all transactions described therein.

SECTION 4.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

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: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Nicholas Gradisar, Mayor
Alexandria Romero, Director of Finance
Barb Huber, Fire Chief
Marisa Pacheco, Director Human Resources
Robert Jagger, Deputy City Attorney

SUBJECT: AN ORDINANCE APPROVING AND ENACTING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL NO. 3 COMMENCING JANUARY 1, 2024 AND AUTHORIZING THE MAYOR TO EXECUTE SAME.

SUMMARY:

Attached is a proposed Ordinance which would approve and enact the collective bargaining agreement between the City of Pueblo and the International Association of Fire Fighters Local No. 3 ("Union") commencing January 1, 2024. Pursuant to §8-14(l) of the City Charter, any collective bargaining agreement negotiated between the Union and the City shall be reduced to writing, signed by the parties, and enacted by Ordinance.

PREVIOUS COUNCIL ACTION:

Not Applicable.

BACKGROUND:

The current collective bargaining agreement between the City and Union expires on December 31, 2023. Pursuant to the requirements of the City Charter, the City and Union commenced negotiations with respect to a successor contract in July of this year. Through the negotiation process, the parties have negotiated a proposed agreement with respect to a successor contract.

The successor contract contains the following specific substantive changes with respect to the prior contract:

Article 10 – Wages. For 2024, wages for employees in the Fire Fighter classification are increased by 7.3%. Wages for all other classifications are increased by a set percentage based upon the top step Fire Fighter wage: Engineer (107%), EMO (110%), Fire Inspector (112%), Lieutenant (120%), Captain (130%) and Assistant Fire Chief (150%) (“Promotional Wage Schedule”). For 2025, wages for employees in the Fire Fighter classification are increased by 7.0% and the same Promotional Wage Schedule. For, 2026, wages for employees in the Fire Fighter classification are increased based upon an average of the most currently known increases received by top step fire fighter in the comparable jurisdictions and the same Promotional Wage Schedule.

Article 17. Increase monthly longevity pay to \$75 (5 years), \$150 (10 years), \$225 (15 years) and \$300 (20 years).

Article 18. Adjust step up pay based upon new Lieutenant classification.

Article 23. Adopts the 48/96 Work Schedule the Department has been utilizing pursuant to the Amendment to Agreement (Ordinance No. 9728) and subsequent MOU.

Article 49. Remove EMT-I as a promotional requirement for Engineer but require ALS certification as a promotional requirement for Lieutenant and Captain.

Article 51 – Duration of Agreement. The term of the agreement is for 3 years subject to the City approving any subsequent year contract extension on or before June first of the then current year. If not extended by City, the complete contract shall be opened and the parties will commence the negotiation process for a successor contract in compliance with the requirement of Section 8-14, City Charter

FINANCIAL IMPLICATIONS:

In 2024, the costs associated with percentage increases for all ranks will be approximately \$1,176,438. In 2025, the costs associated with percentage increases for all ranks will be approximately \$1,258,789. In 2026, the costs associated with percentage increases for all ranks is unknown at this time. The agreement also provides an increase to longevity monthly payments of approximately \$290,818 in 2024. The longevity cost increase for 2025 and 2026 are unknown and dependent on staff composition in each of those years.

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

If approved, the requirements of §8-14(l) of Charter require the agreement be enacted as an Ordinance.

RECOMMENDATION:

City Administration recommends approval of this Ordinance.

ATTACHMENTS:

1. Pueblo IAFF Contract (final clean)

ORDINANCE NO.

AN ORDINANCE APPROVING AND ENACTING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL NO. 3 COMMENCING JANUARY 1, 2024 AND AUTHORIZING THE MAYOR TO EXECUTE SAME.

WHEREAS, pursuant to the requirement of Section 8-14, City Charter, the corporate authorities of the City of Pueblo and the sole and exclusive bargaining agent of the fire fighters, i.e. the International Association of Fire Fighters Local No. 3, have negotiated and otherwise resolved all remaining issues by final and binding interest arbitration with respect to a collective bargaining agreement commencing January 1, 2024 (the "Labor Agreement"); and

WHEREAS, the Labor Agreement has been reduced to writing and signed by said parties pursuant to the requirements of Section 8-14(l) of the Charter, City of Pueblo, Colorado; and

WHEREAS, Section 8-14(l) of the Charter of the City of Pueblo, Colorado, further requires that the Labor Agreement be enacted as an Ordinance; NOW, THEREFORE,

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

SECTION 1.

The Collective Bargaining Agreement between the City of Pueblo and the International Association of Fire Fighters Local No. 3 commencing January 1, 2024, 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 the Collective Bargaining Agreement in the name 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 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 July 24, 2023.

Final adoption of Ordinance by City Council on August 14, 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

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

CITY OF PUEBLO

AND

INTERNATIONAL ASSOCIATION

OF FIRE FIGHTERS

LOCAL #3

COMMENCING JANUARY 1, 2024

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PREAMBLE

This Agreement is entered into by and between the City of Pueblo, hereinafter referred to as the City, and International Association of Fire Fighters Local #3, hereinafter referred to as the Union. The City and the Union may also hereinafter be referred to severally as a party, and jointly as the parties.

It is the purpose of this Agreement to achieve and maintain harmonious relations between the Employer and the Union; to provide for equitable and peaceful adjustment of differences, which may arise, and to establish proper standards of wages, hours and other conditions of employment.

DEFINITIONS

"Fire Chief"	shall mean the Fire Chief, acting Fire Chief, or the designee of either.
"Mayor"	shall mean the Mayor, Deputy Mayor or the designee of either.
"Director"	shall mean the Director of Personnel or his designee.
"Fire Fighter"	shall mean any member of the classified service of the fire department so defined in sec. 8-14(a)(1) of the City Charter.
"Group A Fire Fighters"	shall mean those Fire Fighters whose normal work schedule consists of 8 hour shifts or parts thereof, unless such firefighters work a flex time schedule approved by the Fire Chief under Article 23.
"Group B Fire Fighters"	shall mean those Fire Fighters whose normal work schedule consists of 24 hour shifts or parts thereof.
"Day"	shall mean calendar day unless otherwise modified or defined herein.
"Modified Duty"	shall mean the assignment of an employee to work with medical restriction of duty either in the employee's regular class or in another class in the fire department during any period in which the fire fighter would otherwise be eligible for injury leave benefits.

Unless otherwise specified herein, words used in this Agreement shall have the same meaning as are given them in Section 6-3-1 of the 1971 Code of Ordinances in effect on April, 1983.

ARTICLE 1. RECOGNITION.

The City recognizes the Union as the sole and exclusive collective bargaining agent for all Fire Fighters.

ARTICLE 2. DUES CHECKOFF AND INDEMNIFICATION.

The City shall deduct on a regular basis dues and fees from the pay of all Fire Fighters who hereafter voluntarily authorize such deduction in writing on a form provided for this purpose by the Union or the City; the form to be as set forth below; the Union will initially notify the City as to the amount of dues, or dues and initiation fees, to be deducted. Such notification will be certified to the City in writing over the signature of the authorized officer or officers of the Union. Changes in the Union membership dues or fees will be similarly certified to the City and shall be done at least one month in advance of the effective date of such change. The City will remit to the Union sums within thirty (30) days after date of deduction.

The Union shall indemnify, defend, and hold harmless the City, and its officers, agents or employees against any and all claims, demands, suits, or other forms of liability that may arise out of, or result from, any action taken by it or them in order to comply with this Article, except negligent acts for which it or they shall be responsible.

PAYROLL DEDUCTION AUTHORIZATION

NAME: _____

DEPARTMENT: _____

EFFECTIVE DATE: _____

I hereby request and authorize the City of Pueblo to deduct from my earnings, once each month, union dues and assessments, as well as any increases in such dues and assessments, as established by the Union. I further request and authorize Local No. 3, IAFF to certify to the City of Pueblo the amount to be deducted as well as any increases in such union dues and assessments. The amount deducted shall be remitted to the Treasurer of Local No. 3, IAFF, the sole and exclusive Collective Bargaining Agent of the Fire Fighters.

I hereby waive all rights in or claims to the amounts so deducted and remitted, and also relieve the City, the Union, and all officers, agents or employees of either, from liability for such amounts.

DATE: _____

SIGNATURE: _____

ARTICLE 3. UNION SECURITY.

Section 1. No Fire Fighter shall be required to become a member of the Union as a condition of his/her employment or continued employment by the City, and there shall be no discrimination against any Fire Fighter on account of his/her membership or non-membership in the Union.

Section 2. It is recognized that all Fire Fighters may or may not join the Union, at the individual's discretion.

Section 3. It is further recognized that the Union, as the exclusive bargaining representative of all Fire Fighters, owes the same duties to all Fire Fighters whether Union members or not, and provides benefits and services to all Fire Fighters whether Union members or not. The Union will be allowed to have up to two (2) hours during the recruit academy to talk with probationary Fire Fighters about Union activities that are mutually beneficial to the City and the community.

ARTICLE 4. DISCRIMINATION.

The City and the Union recognize that they are subject to and this Agreement is subordinate to certain local, state and federal laws prohibiting discrimination based on race, color, religion, sex, national origin, politics, age, handicap, or affiliation or non-affiliation with a labor organization.

ARTICLE 5. PREVAILING RIGHTS.

All ordinances and working conditions in effect on March 1, 1983, pertaining to Fire Fighters, which are not included in this Agreement, shall remain in full force, unchanged and unaffected in any manner, during the term of this Agreement unless changed by mutual consent.

ARTICLE 6. RIGHTS OF MANAGEMENT.

Section 1. Except as otherwise specifically provided in this Agreement, the City has the sole and exclusive right to exercise all the rights or functions of management, and the exercise of any such rights or function shall not be subject to any grievance procedure, except as to resolution of whether or not a specific matter is a management right. Without limiting the generality of the foregoing, as used herein, the term "Rights of Management" includes:

- (a) The determination of Fire Department policy, including the right to manage the affairs of the Fire Department in all respects;
- (b) The right to assign working hours, including overtime;
- (c) The right to establish, modify or change work schedules, manning of apparatus in the main or reserve fleet, etc.;
- (d) The right to assign Fire Fighters to other duties within the Fire Department when their apparatus is out of service;
- (e) The right to direct the members of the Fire Department, including the right to hire, promote, or transfer any Fire Fighter within the Fire Department;
- (f) The table of organization of the Fire Department, including the right to organize and reorganize the Fire Department in any manner it chooses, including the size of the Fire Department and the determination of job classifications and positions within classes based upon duties assigned.
- (g) The determination of the safety, health and property protection measures of the Fire Department;
- (h) The allocation and assignment of work to Fire Fighters within the Fire Department;
- (i) The determination of policy affecting the selection or training of Fire Fighters;
- (j) The scheduling of operations and the determination of the number and duration of hours of assigned duty per week;
- (k) The establishment, modification and enforcement of Fire Department rules, regulations, and orders;
- (l) The transfer of work from one position to another within the Classified Service of the Fire Department;
- (m) The introduction of new, improved or different methods and techniques of operation of the Fire Department or a change in existing methods and techniques;

(n) The placing of service, maintenance or other work with outside contractors or other agencies of the City;

(o) The determination of the number of classes and the number of Fire Fighters within each class;

(p) The determination of the amount of supervision necessary.

Section 2. No discretionary power vested in the City or in the Fire Chief shall be exercised in an arbitrary or capricious manner.

ARTICLE 7. RULES AND REGULATIONS.

All Fire Fighters shall comply with all Fire Department rules and regulations. The Union recognizes that the City has the authority to suspend, demote, discharge or take other appropriate disciplinary action against employees for just cause. Any alleged violations by either the City or Fire Fighter of a departmental rule or regulation shall be subject to the grievance procedure set out in Article 25.

ARTICLE 8. PRODUCTIVITY.

Section 1. The Union and the City recognize that increased productivity will require the continuation of improvements and technological progress through new methods, techniques and equipment which will contribute to improved quality and efficiency of fire protection for the citizens of Pueblo. The Union and the City will act in good faith and with a cooperative attitude to achieve these ends.

ARTICLE 9. OVERTIME PAY.

Section 1. Fire fighters shall be compensated for overtime work at the rate of time and one-half, in wages, when requested to work such overtime by the Chief of the Department. Only such hours as are worked in excess of the prescribed daily work shift shall be so compensated.

Section 2. Any Fire Fighter called back to work prior to the beginning of his next regular shift shall be compensated for a minimum of four (4) hours at the rate of one and one-half (1 ½) his regular rate of pay as provided in Section 1 of this Article. If a Fire Fighter is moved from one shift to another he shall work the first half (day shift) of the shift being moved from the second half (night shift) of the shift he is being moved to.

Section 3. Any overtime or call-back compensation provided for in this Article may, at the discretion of the Fire Fighter, and subject to the requirements of the Fair Labor Standards Act, be taken as time off regularly scheduled work hours at the rates provided in this Article, provided that the time taken off must be approved by the Chief.

Section 4. Fire fighters actually contacted and requested to work overtime during an emergency shall respond to such emergency.

Section 5. Section 1 above rather than Section 2 shall apply to any Fire Fighter required to hold over at the end of a shift for a maximum of two hours for purposes of attendance at meetings, or training sessions.

ARTICLE 10. WAGES.

Section 1. Effective January 1, 2024, the monthly pay rate for each class, grade, step or position of employees in the Fire Fighter classification shall be increased by 7.3% over the amount set by Ordinance establishing the 2023 pay levels. The monthly pay rate for each position in the promotional classes shall be paid in accordance with the following monthly pay rates (*denotes a 56-hr work week except for Captain (Administration)):

(a) The monthly pay rate for each position in the classification of Engineer* shall be that amount which is equivalent to 107% of the above identified monthly pay rate for Fire Fighter 6th year.

(b) The monthly pay rate for each position in the classification of Emergency Medical Officer* shall be that amount which is equivalent to 110% of the above identified monthly pay rate for Fire Fighter 6th year.

(c) The monthly pay rate for each position in the classification of Fire Inspector shall be that amount which is equivalent to 112% of the above identified monthly pay rate for Fire Fighter 6th year.

(d) The monthly pay rate for each position in the classification of Fire Lieutenant* shall be that amount which is equivalent to 120% of the above identified monthly pay rate for Fire Fighter 6th year.

(e) The monthly pay rate for each position in the classification of Fire Captain* shall be that amount which is equivalent to 130% of the above identified monthly pay rate for Fire Fighter 6th year.

(f) The monthly pay rate for each position in the classification of Assistant Fire Chief* shall be that amount which is equivalent to 150% of the above identified monthly pay rate for Fire Fighter 6th year.

("Promotional Pay Schedule")

If, and in the event that, the City exercises its option to extend the term of this Agreement for the period January 1, 2025 through December 31, 2025, the monthly pay rate for each class, grade, step or position of employees in the Fire Fighter classification shall be increased over the amount set by Ordinance establishing the 2024 pay levels by

an amount equal to the 7.0%. The monthly pay rate for each position in the promotional classes shall be paid in accordance the Promotional Pay Schedule.

If, and in the event that, the City exercises its option to extend the term of this Agreement for the period January 1, 2026 through December 31, 2026, the monthly pay rate for each class, grade, step or position of employees in the Fire Fighter classification shall be increased by the average of the annual percentage increase in the rate of pay of the top step fire fighter in the following cities or fire districts/authorities:

Arvada Fire District, Aurora, Colorado Springs, Denver, Poudre Valley Fire Authority, Thornton, West-Metro Fire District, Westminster.

The exclusion of any jurisdiction not above listed shall not be construed or relied upon as an admission by Union that such jurisdiction is not a comparable jurisdiction under §8-14(i)(b), City Charter.

For purposes of this Section, “annual percentage increase” shall be based upon the annual increase in the rate of pay for year 2026, if known, or year 2025 otherwise. The monthly pay rate for each position in the promotional classes shall be paid in accordance the Promotional Pay Schedule.

Section 2. Captain (Administration) shall constitute an assignment for Captain and shall have assigned duties primarily relating to administrative functions including training and EMS Coordination. Captain (Administration) shall be a Group A Fire Fighter. The monthly base pay of the Captain (Administration) shall be the monthly base pay of Captain in the same grade who is a Group B Fire Fighter plus an additional \$550.00.

Section 3. Fire Engineers who possess and maintain an EMT-I certification or higher with the City shall be paid a monthly stipend of one percent (1%) of their monthly base pay in accordance with the City’s usual and customary payroll practices.

Section 4. Fire Fighters assigned to Focus Response Unit (FRU) shall be a Group B Fire Fighter.

Section 5. Each Fire Fighter who has completed a course of study in hazardous materials approved by the Fire Chief, and is a certified Hazmat Technician, and is permanently assigned to the Hazmat Response Team, shall receive an additional \$50.00 per month while assigned to the Hazmat Response Team, provided that a maximum of eight (8) fire personnel on each shift will be so compensated. There will be no step up to this position.

Any Fire Fighter assigned to the Hazmat Response Team shall obtain certification at the Hazmat Technician level within one year. Failure to do so will result in transfer by the Chief.

Fire fighters permanently assigned to the Hazmat Response Team effective January 1, 1995, will continue this assignment without the need to re-bid their shift or station.

Section 6. Fire Fighters who are assigned as an Arson Investigator and have the certification of International Association of Arson Investigators Certified Fire Investigator (IAAI-CFI) or National Association of Fire Investigators Certified Fire & Explosion Investigator (NAFI-CFEI) shall receive an additional \$100.00 per month.

ARTICLE 11. BASIC RATE OF PAY.

The basic hourly rate of pay equals the annual salary as set forth in Article 10 divided by:

- (1) 2920 Hours for Group B Fire Fighters.
- (2) 2086 Hours for Group A Fire Fighters.

ARTICLE 12. TUITION REFUND.

Upon recommendation, and after prior approval of the department head and the Mayor, the City of Pueblo may reimburse a permanent, full-time Fire Fighter upon successful completion (grade of C or better) of an approved course or courses in an approved Fire Service related Degree Program or Emergency Medical Services Degree Program. The amount to be reimbursed will not exceed seventy-five percent (75%) of the total cost of tuition, fees, and books. The amount reimbursed shall not exceed two thousand dollars (\$2,000.00) per year per person.

ARTICLE 13. MILITARY LEAVE.

Section 1. Any permanent Fire Fighter who presents official orders requiring his attendance for a period of training or active duty as a member of the military service shall be entitled to military leave for a period or periods not to exceed the equivalent of three weeks of work on the Fire Fighter's regular work schedule in any one year and he shall be entitled to full pay from the City for such period. For purposes of this Article, the foregoing provision stating "the equivalent of three weeks of work on the Fire Fighter's regular work schedule" shall have the same meaning as provided in § 28-3-601, C.R.S. Military leave shall be in addition to, and may not be concurrent with, authorized vacation leave. Such Fire Fighter may take one shift of vacation or personal leave either immediately before or immediately after his military leave.

ARTICLE 14. AUTOMOBILE ALLOWANCE.

A Fire Fighter who is required or specifically authorized by the Chief to operate a private automobile in conduct of City business shall be paid mileage at the amount allowed by the Internal Revenue Service for each mile of usage of the personal automobile on City business.

ARTICLE 15. SHIFT EXCHANGE.

Fire fighters shall have the right to exchange shifts when the change does not interfere with the operations of the Fire Department. Operational interference shall be determined by the Chief or his representative. The Chief shall not act in an arbitrary or capricious manner.

Fire fighters shall have the right to exchange banked vacation for shifts worked, in blocks of either 12 or 24 hours, subject to the restrictions set out above, provided that no such exchange results in any Fire Fighter exceeding the maximum banked vacation allowable under Article 20 herein, and provided that no such exchange results in liability for the payment of overtime compensation by the City.

Neither the City of Pueblo nor the Fire Department is responsible for any problems arising out of shift exchanges, including any time not paid back. The firefighter who agreed to work an exchanged shift shall remain responsible for said shift. In case a firefighter who has agreed to work an exchanged shift fails to do so for any reason (including sick leave) that firefighter shall be charged one vacation shift. If the department is required to assign any overtime, one and one half (1 ½) shifts of vacation shall be charged to that firefighter.

ARTICLE 16. FUNERAL LEAVE.

Section 1. In the event of the death of an employee's spouse, spousal equivalent as defined in section 6-3-1 (33.1) of the Pueblo Municipal Code of Ordinances, child, including step-child, parent, including step-parent, brother, sister or grandchild occurs, the employee shall be entitled to paid administrative leave up to ten (10) consecutive calendar days from date of death for funeral leave. Such leave shall not be accrued or subject to any maximum and not charged against other employee leave.

Section 2. In the event of the death of an employee's grandparent, mother-in-law, father-in-law or other relative residing in the same household as the employee, the employee shall be entitled to take leave for ten (10) consecutive calendar days from date of death for funeral leave. Such time off shall be paid and covered by sick leave or other accrued leave, assuming the employee has a sufficient amount of paid leave available.

Section 3.

(a) Each employee shall be entitled to paid leave from duty for twelve (12) hours per year to attend the funeral of a person other than the Officer's immediate family provided the employee has sufficient paid leave available.

(b) In addition, employees may be granted funeral leave not to exceed four hours for attendance at the funeral of a deceased Fire Fighter, provided a working schedule can be arranged by the Fire Chief that does not materially impair the capability of the department to fulfill its duties to the public.

(c) Accrued vacation leave or leave without pay may be granted by the Fire Chief for further funeral purpose.

ARTICLE 17. LONGEVITY PAY.

Fire Fighter Personnel. Commencing with the month following completion of five years of actual continuous service as a full-time Fire Fighter in the Fire Department of the City, each such Fire Fighter shall receive, in addition to all other compensation for full-time services, the amount of Seventy-Five Dollars (75.00) per month; following ten (10) years of such service, One Hundred and Fifty Dollars (\$150.00) per month; following fifteen (15) years of service, Two Hundred and Twenty-Five Dollars (\$225.00) per month; following twenty (20) years of such service, Three Hundred Dollars (\$300.00) per month. In no event shall longevity compensation exceed Three Hundred Dollars (\$300.00) per month.

ARTICLE 18. RATE OF PAY FOR WORKING IN HIGHER CLASSIFICATION.

When a Fire Fighter is assigned to and performs the duties of a higher classification for a period of four (4) hours for a Class A Fire Fighter or four (4) hours for a Class B Fire Fighter, or longer, the Fire Fighter will be paid for the duration of such service the following increases:

Fire Fighter 1 through 6 to Engineer	\$30.00 per shift	
Fire Fighter 1 through 6 to EMO	\$55.00 per shift	
Fire Fighter 1 through 6 to Lieutenant	\$60.00 per shift	
Engineer to Captain	\$40.00 per shift	
Engineer to EMO	\$20.00 per shift	
Engineer to Lieutenant	\$35.00 per shift	
EMO to Captain	\$40.00 per shift	
EMO to Lieutenant	\$35.00 per shift	
Captain to Assistant Chief	\$80.00 per shift	
Lieutenant to Captain	\$45.00 per shift	

ARTICLE 19. HOLIDAYS.

Section 1. Group A. Fire fighters shall receive the following days off with full pay:

- (a) The first day of January (New Year's Day)
- (b) The third Monday in January (Martin Luther King, Jr. Day)
- (c) The third Monday in February (President's Day)
- (d) The last Monday in May (Memorial Day)
- (e) The nineteenth day of June (Juneteenth Day)
- (f) The fourth day of July (Independence Day)
- (g) The first Monday in September (Labor Day)
- (h) The second Monday in October (Columbus Day)
- (i) The fourth Thursday in November (Thanksgiving Day)
- (j) The day after Thanksgiving
- (k) The twenty-fifth day of December (Christmas Day)

For Group A Fire Fighters only, when any holiday listed above falls on Saturday, the preceding Friday shall be observed as the holiday; when the holiday falls on Sunday, the following Monday shall be observed as a holiday. In addition to the above, any day may be designated as a holiday by proclamation of the Council President upon approval of the City Council. Group A Fire Fighters shall receive forty (40) hours of personal leave during each calendar year of employment.

Section 2. Group B Fire Fighters shall receive one hundred and fifty-six (156) hours of personal leave during each calendar year of employment in lieu of holidays.

Section 3. Each employee working for the City on any election day shall be allowed such time off as is necessary to vote. Such time off shall be scheduled by the Chief.

Section 4. Personal Leave.

(a) Personal leave time may be granted, with pay, for any one of the following purposes:

- (1) Time lost as a result of illness or injury of the Fire Fighter's immediate family.
- (2) To attend to personal business.
- (3) Leisure activities.

(b) The City will compensate Group A Fire Fighters for no more than forty (40) hours of unused personal leave time and will compensate Group B Fire Fighters for no more than one hundred and fifty-six (156) hours of unused personal leave time at the Fire Fighter's regular rate of pay.

1. Fire Fighter's requesting compensation in lieu of personal leave in the final payroll period of the calendar year, are required to submit a written request no later than December 15th of said calendar year.

2. If Fire fighter's wish to receive a payment in lieu of personal leave at

some time other than the final pay period of the calendar year, Fire Fighters may submit a written request for such payment, and a Personnel Action Form ("PAF") will be generated to initiate that payment. If the approved written request and PAF are received by the City Finance office prior to the 15th day of any month, payment for such personal leave will be issued on the date of normal payroll distribution for the month in which the request for payment was made. If the approved written request and PAF are received by the City Finance office after the 15th day of any month, payment for such personal leave will be issued in the month following the month in which the request for payment was made and will occur on the normal payroll distribution date. Personal leave time shall not exceed the levels indicated above, nor shall it be accumulated or carried over from one year to the next.

3. Personal leave shall be scheduled and administered under the direction and with the approval of the Fire Chief. In the event of illness, injury or emergency in which personal leave is requested, the Fire Fighter shall notify his supervisor at least one (1) hour prior to scheduled reporting time.

(c) Except in the case of illness, injury or emergency requests for personal leave by any Fire Fighter shall be made at least five (5) days prior to the day the leave is to be taken. All or part of personal leave may be scheduled to be taken at the time vacations are scheduled.

ARTICLE 20. VACATION LEAVE.

Section 1. Group A Fire Fighters hired prior to 1/1/97 shall be allowed vacation leave with full pay at the rate of:

- 12 shifts for one year continuous service with the City of Pueblo;
- 15 shifts for five years continuous service with the City of Pueblo;
- 18 shifts for ten years continuous service with the City of Pueblo;
- 21 shifts for fifteen years continuous service with the City of Pueblo.

Group A Fire Fighters hired on or after 1/1/97 shall be allowed vacation leave with full pay at the rate of:

- 10 shifts for one year continuous service with the City of Pueblo;
- 15 shifts for five years continuous service with the City of Pueblo;
- 18 shifts for ten years continuous service with the City of Pueblo;
- 21 shifts for fifteen years continuous service with the City of Pueblo.

Section 2. Group B Fire Fighters hired prior to 1/1/97 shall be allowed vacation leave with full pay at the rate of:

- 6 shifts for one year continuous service with the City of Pueblo;
- 7 shifts for five years continuous service with the City of Pueblo;
- 8 shifts for ten years continuous service with the City of Pueblo;
- 10 shifts for fifteen years continuous service with the City of Pueblo.

Group B Fire Fighters hired on or after 1/1/97 shall be allowed vacation leave with full pay at the rate of:

- 5 shifts for one year continuous service with the City of Pueblo;
- 7 shifts for five years continuous service with the City of Pueblo;
- 8 shifts for ten years continuous service with the City of Pueblo;
- 10 shifts for fifteen years continuous service with the City of Pueblo.

Section 3. Vacation leave may be granted in minimum and maximum periods as provided by the Fire Chief, with the approval of the Mayor, provided vacation leave will not be granted in excess of vacation credit earned prior to the starting date of leave.

Section 4. The Fire Fighter with the longest length of service in the Fire Department shall be given the first choice of accrued vacation dates; the next senior Fire Fighter in the Fire Department, the second choice; and the like for succeeding conflicts, if any.

Section 5. If, in the discretion of the Mayor, an emergency exists, a Fire Fighter may be granted the equivalent in money, of vacation leave which such Fire Fighter is entitled for that year.

Section 6. At the termination of service with the Fire Department, for any reason, of any Fire Fighter covered by this Agreement said Fire Fighter shall receive compensation in full at his regular rate of pay for all accumulated vacation allowance due him at the termination of his service, in addition to all accumulated sick leave to which he is entitled according to Article 28. Upon the death of a Fire Fighter covered by this

Agreement, the cash benefits attributable to Fire Fighter's accumulated vacation allowance, and all accumulated sick leave to which he is entitled according to Article 28, shall be paid to the Fire Fighter's surviving spouse, or if there be no surviving spouse then to the Fire Fighter's surviving child or children, or if there be no surviving child or children, then to the Fire Fighter's estate.

Section 7. A Fire Fighter may accrue up to one year of annual vacation. If the Fire Fighter desires he may put all or part of his accrued vacation in bank up to twice his annual vacation ("Maximum Accrual"). If the Fire Fighter meets the Maximum Accrual, the Fire Fighter will not be required to bid the excess vacation but shall be required to schedule it in the same manner banked vacation is scheduled. Any vacation in excess of Maximum Accrual must be used by December 31st of the same year or it will not be allowed and will be lost (use or lose). Banked vacation may be taken at a later date in accord with the following procedure:

(a) Requests shall be made in writing within the thirty (30) day period prior to the shift desired.

(b) Requests shall be considered on a first come first serve basis unless two or more requests are received during the same 24 hour (7:00 a.m. - 7:00 a.m.) period when the senior Fire Fighter shall have priority in this case.

(c) Confirmation by the Chief of the shift requested shall be no less than two (2) shifts before the shift desired.

(d) Seven Fire Fighters shall be allowed off for vacation, personal days or comp time per shift. Additional Fire Fighters allowed off, if any, shall be at the sole discretion of the Chief. All requests to take vacation or personal days shall have precedence over any request to use comp time, provided that if comp time is denied, the firefighter shall be entitled to be paid for such time.

(e) If approved, compensatory time off shall be used in increments of no less than four (4) hours at a time.

ARTICLE 21. APPENDICES AND AMENDMENTS.

All appendices and amendments to this Agreement shall be numbered, dated and signed by both responsible parties and shall be subject to all provisions of this Agreement.

ARTICLE 22. CLOTHING ALLOWANCE.

Section 1. Except for shoes, socks, belts, underwear and sleeping apparel, the City shall furnish all uniforms, protective clothing and protective devices required by the City in the performance of the duties of the Fire Fighters. Each Fire Fighter shall wear approved and appropriate sleeping apparel as required by such departmental regulation or order.

(a) On or before April 1 of each year of this agreement, the City shall provide all Fire Fighters the following uniform items:

- Three (3) t-shirts
- Three (3) pairs of pants
- One (1) job shirt

(b) Upon hiring, the City shall provide the following uniform items:

- One (1) uniform coat
- Two (2) dress shirts

Section 2. A joint labor/management uniform committee (the "Uniform Committee") will meet periodically to review the uniforms, protective clothing and protective devices provided and may recommend alternatives or changes in specific items during the term of this agreement. The City retains the right to approve or not approve the recommendation. The City shall not, however, reduce the fire safety standards of the uniforms, protective clothing and protective devices provided by the City as of August 1, 2012.

Section 3. The City will be responsible for the replacement and repair of all uniforms, protective clothing and protective devices provided by City unless the item is lost or damaged due to the Fire Fighter's neglect. If a Fire Fighter loses or damages an item through neglect, he/she will be required to purchase a replacement item from the City. The City has the authority to determine if and when a replacement of any item of uniform, protective clothing or protective gear is required. With respect to any required replacement, the City shall replace and/or repair such item in a reasonable period of time after receipt of written request from the Fire Fighter. The City will make a good faith effort to replace uniform items within thirty (30) days of receipt of a written request and will make good faith efforts to replace protective clothing and protective devices within ninety (90) days of receipt of a written request. During any period a Fire Fighter is waiting for replacement of protective clothing or a protective device, the City shall provide the Fire Fighter with an adequate temporary protective clothing or protective device.

Section 4. A Fire Fighter leaving the service of the City whether through resignation, retirement, layoff or discharge, is responsible for returning any City property including uniforms, protective clothing or protective gear provided by City. Failure to return City property may result in the delay in issuance of the Fire Fighter's final check and deduction may be made for the value of the property not returned.

Section 5. The City shall pay each Fire Fighter \$180.00 per year for the maintenance of the uniforms, on or before the last business day in the month of January in each year of this agreement. Payment may be issued as part of the regular payroll check or by separate check at the discretion of the City.

Section 6. The City, by no later than April 1, 2020, will purchase twenty (20) sets of bunker gear consisting of the following:

- 20 Turnout coats
- 20 Turnout pants
- 20 Pairs of gloves
- 20 Protective hoods

The City shall will make these extra sets of bunker gear available for use as “loaner gear” so as to allow Fire Fighters to avoid contaminated and/or damaged bunker gear. The Uniform Committee will draft the appropriate guidelines as to how these extra sets will be made available to Fire Fighters.

ARTICLE 23. WORK SCHEDULES.

Section 1. Group B Fire Fighters shall work a work schedule consisting of two twenty-four hour shifts and four days off within a repeating six-calendar day period. For purposes of 29 U.S.C. §207(k) and 29 C.F.R. 553.230, the work period shall be twenty-four (24) calendar days. The employee's basic hourly rate of pay shall be 12 x Monthly Base Pay/2920 hours.

Section 2. Group A Fire Fighters shall work their regularly scheduled hours between Monday and Friday between the hours of 7:00 a.m. and 5:00 p.m. The Chief shall have the discretion to determine at what time within these hours the work day shall commence.

Section 3. The Fire Chief may implement a flex time program for Group A Fire Fighters if he or she desires. The Chief retains the right to return Group A Fire Fighters to normal schedule at any time. Flex time schedules shall not be limited to flex time hours between Monday and Friday or be limited to the flex time hours between the hours of 7 a.m. and 5:00 p.m. or 7 a.m. and 7 p.m.

Section 4. In the event of an emergency the Fire Chief shall have the authority to assign work schedules as he/she deems necessary.

ARTICLE 24. FAMILY MEDICAL COVERAGE.

Section 1. Health insurance shall be as provided or otherwise determined pursuant to the August 26, 2019 Self-Funded Health Benefit Plan Amendment to the Labor Agreement, a copy of which is attached hereto, labelled Exhibit A and incorporated herein.

Section 2. The City shall contribute for each firefighter \$25.00 of the full cost of an individual dental plan and \$25.00 of the full cost of a family dental plan. The City shall also provide for a \$10,000 Life insurance plan for all firefighters. The dental plan should be the same or similar to the plans of general service employees.

ARTICLE 25. GRIEVANCE PROCEDURE.

Section 1. A grievance is a claim that the City has violated an express provision of this Agreement. Any Fire Fighter or group of Fire Fighters may discuss any matter with their supervisor without invoking the formal grievance procedure provided for in the Article.

Section 2. A grievance must be initiated by either an aggrieved Fire Fighter or by Local No. 3 on behalf of any one or more individual Fire Fighters. The grievant must reduce the grievance to writing and present the written grievance to the Chief of the Fire Department within ten (10) days after the grievant knew or should have known the facts which gave rise to the grievance.

Section 3. The Chief of the Fire Department shall meet with the grievant and, if the grievant is an individual, representatives of Local No. 3 in an effort to resolve the grievance within 10 calendar days after being presented with the written grievance. The Fire Chief shall respond to the grievance within seven (7) days following the meeting with the grievant and/or representatives of Local No. 3.

Section 4. If the grievant is not satisfied with the answer of the Chief of the Fire Department, the grievance committee of the Union may appeal the grievance to the Mayor within 10 days of receipt of the written answer of the Chief of the Fire Department. Within 10 days after receipt of the appeal, the Mayor shall meet with the grievant and if the grievant is an individual, with representatives of Local No. 3 to discuss the grievance. Within 5 days after this meeting, the Mayor shall give the Union grievance committee his answer in writing.

Section 5. If the Union grievance committee is not satisfied with the answer of the Mayor, a Union officer must give written notice of intent to arbitrate to the corporate authorities of the City within fourteen (14) days after receipt of the Mayor's answer. Representatives of the corporate authorities and of the Union shall attempt to agree upon an arbitrator within seven (7) days of submission of the written notice of intent to arbitrate. In the event the parties are unable to agree upon an arbitrator within the time limit, either party or its representative may request the Federal Mediation and Conciliation Service to furnish a panel of seven arbitrators. The parties shall alternately strike from this panel until only one name remains. The remaining name shall be the arbitrator. The arbitrator shall render a decision which is final and binding upon the parties within thirty (30) calendar days after hearing the grievance.

Section 6. The fees and costs of the arbitrator shall be shared equally by the Union and the City. Each party shall pay its own costs and expenses of the arbitration.

Section 7. The findings and decision of the arbitrator shall be consistent with applicable Colorado law and with the expressed terms of this Agreement. The arbitrator shall have no power or authority to add to, subtract from, disregard, alter or modify any of the terms of this Agreement.

Section 8. Failure of a Fire Fighter or Union to initiate a grievance or file written appeal or demand for arbitration within the time limits specified in this Article shall constitute an irrevocable waiver of the right to file or pursue such grievance. The City and the Union may mutually waive any time limitation contained herein. The parties recognize that such waivers are contrary to the spirit of the grievance procedure and shall be invoked only for substantial reasons. Failure of the Fire Chief or Mayor to timely file his answer to any grievance shall be deemed to be a denial thereof. However, in all events, the Fire Chief or Mayor must file a written answer to any such grievance.

Section 9. Notice under this Article shall be given by personal delivery, if to:

- (a) the Union, the president or any member of the Union's adjustment committee; or
- (b) the City, the Fire Chief or Mayor or their respective administrative staff.

Union shall give notice to the City, in writing, of Union's current president and all current members of Union's adjustment committee, and Union shall promptly notify the City in writing of any changes thereto.

ARTICLE 26. DISABILITY PAYMENTS--FIRE DEPARTMENT PERSONNEL.

Section 1. In any case where a Fire Fighter shall become mentally or physically disabled while not on active duty during regularly assigned hours of duty, and from any cause not self-inflicted or due to the habitual use of intoxicants or drugs, to an extent whereby he is unable to perform his regular Fire Department duties, he shall be paid by the City of Pueblo from funds available within the Fire Department's annual appropriation starting immediately after the expiration of paid sick leave benefits and accrued vacation leave as provided by Article 28 and 20 of this Agreement, and for the remaining period of such disability, not to exceed one (1) calendar year from the date of such disability, a monthly benefit equal to two and one-half percent (2 ½%) of the amount of his monthly salary as of the date of his disability; multiplied by the number of years he has been in active service with the Fire Department; but any such benefits under this provisions shall not exceed one-half of his monthly salary as of the date of his disability.

Section 2. For the purpose of determining the physical or mental disability of any such member, the Firemen's Pension Fund Board established by Section 2-2-1 of the Code of Ordinances of the City of Pueblo shall have jurisdiction. The Board may personally examine the member and shall appoint one or more physicians or surgeons to make an examination of the member and report their findings to the Board, which report shall be taken into consideration in determining whether the member is physically or mentally disabled.

Section 3. In the event the State Legislature enacts a statute removing the 12 month waiting period from C.R.S. 1973, 31-30-407 (1)(F)(I) the provisions of this section shall automatically terminate.

ARTICLE 27. SAVINGS CLAUSE.

The provisions of this agreement are severable and the legal invalidity of any provision or provisions shall not affect or invalidate other provisions. However, if any provision of this Agreement should be declared invalid by any court of competent jurisdiction, then the parties to this Agreement shall meet within fifteen (15) days from the date they learn of such declaration and negotiate in good faith for the purpose of agreeing upon a lawful provision which would accomplish the intent of the parties as expressed by the provision declared invalid.

ARTICLE 28. SICK LEAVE.

Section 1. Group B Fire Fighters shall be allowed 17/24 of a working shift of sick leave for each month of service from the first day of employment. Unused sick leave shall be accumulated to a maximum accrual of 84 working shifts. Group B Fire Fighters hired on or after January 1, 1996, shall be allowed 12/24 of a working shift of sick leave for each month of service from the first day of employment. Unused sick leave shall be accumulated to a maximum accrual of 84 working shifts. Effective January 1, 2004, the maximum sick leave accrual for Group B Fire Fighters shall be reduced from 84 shifts to 74 shifts, and departmental records shall be adjusted to reflect this reduction.

Section 2. Group A Fire Fighters shall be allowed one and one-half working days of sick leave for each month of service from the first day of employment. Unused sick leave shall be accumulated to a maximum accrual of 200 working shifts. Group A Fire Fighters hired on or after January 1, 1996, shall be allowed one working day of sick leave for each month of service from the first day of employment. Unused sick leave shall be accumulated to a maximum accrual of 200 working shifts. Effective January 1, 2004, the maximum sick leave accrual for Group A Fire Fighters shall be reduced from 200 days to 180 days; and departmental records shall be adjusted to reflect this reduction.

Section 3. Fire fighters shall be allowed to use accrued and unused paid sick leave for a maximum of one (1) shift for all Group B Fire Fighters and three (3) days for all Group A Fire Fighters in each consecutive twelve (12) months for a life threatening illness or illness requiring hospitalization of the employee's spouse or child, subject to verification thereof.

Section 4. Upon separation due to retirement or death, a Group A Fire Fighter hired prior to January 1, 1996, shall be paid at his regular rate of pay for all accumulated sick leave, but not to exceed 120 days; a Group B Fire Fighter hired prior to January 1, 1996, shall be paid at his regular rate of pay for accumulated sick leave, but not to exceed 56 working shifts.

Section 5. In the event of death, such sum shall be paid to the surviving spouse of such Fire Fighter. In the event there shall be no surviving spouse, then such sum shall be paid to the Estate of such Fire Fighter.

Section 6. Separation benefits shall be paid immediately upon the effective date of separation.

Section 7. Group A Fire Fighters hired on or after January 1, 1996, shall not be reimbursed for unused sick leave upon separation. These Fire Fighters will have the option to receive compensation for ten (10) days of sick leave each year at one-half ($\frac{1}{2}$) pay. However, before a Group A Fire Fighter may exercise this option, he must have a minimum of twenty-four (24) days of unused accrued sick leave to his credit, and his accrual may not be reduced to less than twenty-four (24) days by the exercise of this option. Group B Fire Fighters hired on or after January 1, 1996, shall not be reimbursed for unused sick leave upon separation. These Fire Fighters will have the option to receive compensation for 112 hours of sick leave each year at one-half ($\frac{1}{2}$) pay. However, before

a Group B Fire Fighter may exercise this option, he must have a minimum of 288 hours of unused accrued sick leave to his credit, and his accrual may not be reduced to less than 288 hours by the exercise of this option.

Section 8. All Fire Fighters hired prior to January 1, 1996, shall have the option of electing the new plan, however, they must waive all benefits under Section 4, Section 5, and Section 9 of this Article. Once this election is made, the Fire Fighter may not return to the old plan. This election to enter the new plan must be made prior to January 1, 1996. Group A Fire Fighters who opt into the new plan shall be allowed one working day of sick leave for each month of service. Group B Fire Fighters who opt into the new plan shall be allowed 12/24 of a working shift of sick leave for each month of service.

Section 9. Group A Fire Fighters hired prior to January 1, 1996, who have not elected the new plan, and who have at least 15 years of service and 120 days of accrued, unused sick leave to their credit, may annually sell back up to 10 days of sick leave for $\frac{1}{2}$ pay. The number of sick leave days sold back to the City shall be deducted from the Fire Fighter's accrual, but his accrual will be increased by future sick leave accrued but unused, to the maximum of 200 days. The amount of days available for buy-back under Section 4 of this article shall be permanently reduced by one-half of the days sold back to the City. Group B Fire Fighters hired prior to January 1, 1996, who have not elected the new plan, and who have at least 15 years of service and 40 shifts of accrued, unused sick leave to their credit, may annually sell back up to 4 shifts of sick leave for $\frac{1}{2}$ pay. The number of sick leave shifts sold back to the City shall be deducted from the Fire Fighter's accrual, but his accrual will be increased by future sick leave accrued but unused, to the maximum of 84 shifts. The amount of shifts available for buy-back under Section 4 of this Article shall be permanently reduced by one-half of the shifts sold back to the City. Effective January 1, 2004, the maximum sick leave accrual for Group A Fire Fighters shall be reduced from 200 days to 180 days; and the maximum sick leave accrual for Group B Fire Fighters shall be reduced from 84 shifts to 74 shifts, and departmental records shall be adjusted to reflect this reduction.

Section 10. All Group B Fire Fighters shall be allowed two working shifts sick leave without a doctor's slip, after which any additional shifts taken as sick leave will require a treating physician's certificate or other reasonable evidence of illness or injury. Employees who fail to provide required documentation may be subject to discipline.

Section 11. All Group A Fire Fighters will be allowed three working shifts sick leave without a doctor's slip, after which any additional shifts taken as sick leave will require a treating physician's certificate or other reasonable evidence of illness or injury. Employees who fail to provide required documentation may be subject to discipline.

Section 12. Sick leave benefits shall be paid for actual illness or disability.

Section 13. A physician's statement certifying the absence from work was required because of illness or disability or other reasonable evidence of illness or disability may also be required whenever any Fire Fighter requests sick leave for his last scheduled work shift before a vacation or holiday leave, or for his first regularly scheduled work shift after a vacation or holiday leave.

Section 14. City may make reasonable contact with a Fire Fighter on sick leave to verify that his absence from work was required because of actual illness or disability which renders him unable to perform his duties. Reasonable contact shall not exceed two contacts during each working shift of sick leave taken without a treating physician's certificate.

Section 15. All Group A or B Fire Fighters using sick leave on three separate occurrences within any twelve month period without a treating physician's certificate or other reasonable evidence of illness or injury shall be presumed to constitute an abuse of sick leave unless the Fire Fighter establishes that he was actually ill or disabled and unable to perform his duties.

Section 16. If a Fire Fighter is on sick leave for three (3) or more consecutive working shifts, the Fire Chief may require the Fire Fighter to return to work to perform light duty unless the Fire Fighter's treating physician certifies that the Fire Fighter is unable to perform light duty.

Section 17. If a Fire Fighter is on sick leave validly taken, the Fire Chief shall not, except in any emergency declared by the Mayor, call the Fire Fighter back to light duty before his next regularly scheduled working shift.

Section 18. If an employee has been scheduled for vacation or personal days, this time shall not be converted to sick leave except in the event of the employee's hospitalization or if Fire Fighter would be unable to perform light duty or modified duty with confirmation by the treating physician. Such verification of injury or illness must be provided to the Fire Chief or Acting Fire Chief as soon as possible. If employee is out of town, he/she must notify the Fire Chief or Acting Fire Chief within 24 hours of injury or sickness and notify the Fire Chief or Acting Fire Chief of the injury or sickness and his/her intent to have time converted to sick leave. If the affected Fire Fighter fails to follow appropriate notification procedures as outline in this Article, the time will not be converted.

Section 19. No provision of this Article shall be construed or applied in violation of the requirements of the Healthy Families and Workplaces Act, C.R.S. §§ 8-13.3-401 et. Seq.

ARTICLE 29. UNION ACTIVITY.

Section 1. Neither the Union, nor its officers, agents, representatives, or members will intimidate, interfere with, or coerce Fire Fighters. No union activity or union business of any kind will be carried on during working hours without express permission in advance from the Fire Chief. All requests for leave from duty for any union business shall be in writing and shall specify name, date, time, location and purpose of the leave. Violation of this Section 1 of this Article 29 by any Fire Fighter shall be just cause for disciplinary action, pursuant to Chapter 10, Title VI of the 1971 Code of Ordinances. Failure of the City to enforce any of the provisions of this Section 1 of this Article 29 in any one or more instances shall not be construed a waiver of any of the provisions of this Section 1 of this Article 29.

Section 2. No Fire Fighter shall be discharged, disciplined or discriminated against because of activity on behalf of the Union which does not interfere with the discharge of his duties or any assignments, or violate any of the provisions of this agreement, City ordinances, statutes, rules or regulations of the department.

Section 3. The Union shall have the right to post on the bulletin boards designated by the Fire Chief, within all respective fire stations and fire offices, notices of union meetings, union recreational and social affairs, notices of union elections, and appointments and results of union elections, all of which pertain to the Pueblo Fire Department. No other postings will be allowed.

Section 4. When approved by the Fire Chief, two of the principal officers of the union shall be granted leave from duty with full pay for conducting necessary Union business. When approved by the Fire Chief, during and for a reasonable time before bargaining with City representatives for a successor collective bargaining agreement the Union Bargaining Committee (not to exceed five persons) shall be granted leave from duty with full pay to conduct negotiations and deliberations. No such leave or permissions shall be granted for lobbying activities in any legislative forum on paid time. The Union shall endeavor to conduct all necessary Union business during the non-working time of the greatest number of Fire Fighters required for such business, to the greatest extent possible. Said approval shall be granted by the Chief when said leave would not disrupt or interfere with the service of the department.

Section 5. Requests for union business leave shall be made at least two shifts before the beginning of the shift during which union business leave is requested whenever possible. The aggregate maximum amount of time which may be taken as fully paid leave to conduct union business under this contract shall not exceed three hundred sixty (360) hours per year, not counting leave for arbitration hearings, grievance hearings or negotiation meetings for a new collective bargaining agreement. Any union business leave in excess of 15 shifts or 360 hours per year shall be charged as vacation leave or taken as unpaid leave.

ARTICLE 30. INJURY LEAVE.

Section 1. Each Fire Fighter covered by this Agreement who is injured while in the performance of his duties inside or outside the City limits shall be paid injury leave in a sum equal to the Fire Fighter's full salary for the period of disability not to exceed one (1) calendar year from the date of injury, except that an employee who undergoes surgery for such a duty injury shall be entitled to a total of one year of such paid injury leave, during a period ending two years from the date of injury, whenever he may be disabled and unable to work as a result of such duty injury. Even though the period of time during such an employee who undergoes surgery for a duty related injury is two calendar years from the date of such duty injury, the total amount of said injury leave to which an employee is entitled is a sum equal to one year of such employee's full salary.

Section 2. Injury leave benefits as set forth herein are maximum benefits for each injury. Fire fighters on injury leave shall be granted all benefits provided other Fire Fighters covered by this Agreement the same as if they were in active service of the City.

Section 3. Workers' Compensation temporary disability benefits paid to a Fire Fighter for the same period of time he receives injury leave benefits hereunder shall be reimbursed to the City, provided that no amount shall be reimbursed until such time as the temporary disability benefits are actually paid. In the event a Fire Fighter receives temporary disability benefits for the period he received injury leave benefits, he shall endorse to the City the check received by him for the purpose of paying such benefits. Receipt of injury leave benefits hereunder by a Fire Fighter shall operate as and be a partial assignment to the City of said Fire Fighter's interest in and to any cause of action against a third party as defined in C.R.S. 1973, 8-52-100 et. seq., as amended, to the extent of injury leave benefits paid or payable hereunder by the City to said Fire Fighter. During such time as he is receiving injury leave benefits hereunder and for a period of 60 days from and after the receipt of the final payment thereof, said Fire Fighter shall have an exclusive right to engage the services of an attorney-at-law to settle or to otherwise dispute of said cause of action which shall not be settled or otherwise disposed of without the written consent of the City. If said Fire Fighter engages the services of an attorney as aforesaid, the City shall not be liable for costs or attorney fees in connection therewith; however, in lieu thereof, the City agrees to limit its pro rata share of any recovery so affected to 75% of injury leave benefits paid or payable to the Fire Fighter hereunder. If said Fire Fighter fails to engage the services of an attorney, as aforesaid, the City may take such action as it deems advisable for the recovery of 100% of all injury benefits paid to said Fire Fighter, and said Fire Fighter will cooperate with the City in such action as it may take and furnish any and all papers and information in his possession deemed by the City to be necessary in connection therewith.

Section 4. No sick leave, injury leave or temporary disability leave benefits shall be payable to any Fire Fighter injured while in the employ of an employer other than the City of Pueblo, or while self-employed.

Section 5. Employees on injury leave are subject to light or modified duty as defined.

ARTICLE 31. SPECIAL LEAVE.

Section 1. In addition to leaves authorized above, the Fire Chief may authorize a Fire Fighter to be absent without pay for personal reasons for a period or periods not to exceed ten (10) working days in any calendar year.

Section 2. The Mayor may authorize special leaves of absence with or without pay for any period or periods not to exceed six (6) calendar months in any one calendar year for the following purposes: attendance at college, university, or business school for the purpose of training in subjects related to the work of the employee and which will benefit the employee and the City service; urgent personal business requiring employee's attention for an extended period such as settling estates, liquidating a business, serving on a jury and attending court as a witness, and for purposes other than above that are deemed beneficial to the City service.

Section 3. The Mayor may authorize special leaves of absence without pay for any of the purposes set out in the preceding subparagraph for any reasonable length of time.

Section 4. The City Council may grant leaves of absence with or without pay in excess of the limitations above for the purposes of extended courses of training at a recognized university or college and for other purposes that are deemed beneficial to the City service.

Section 5. The parties understand that they are subject to the Family and Medical Leave Act of 1993, and that all applicable provisions of the FMLA are controlling over any provisions of this agreement in conflict therewith.

ARTICLE 32. ABSENCE WITHOUT LEAVE.

Section 1. Any Fire Fighter who finds it necessary to be absent from duty due to emergency shall report the reasons therefore to his supervisor or department at least one hour before working time, on the first day of such absence. If this is not possible, the Fire Fighter shall report to his supervisor or department at the earliest possible time and shall state the reasons for his failure to report at least one hour before working time. Failure of a Fire Fighter to so report may be grounds for disciplinary action.

Section 2. All unauthorized absences without leave shall be grounds for disciplinary action. Reduction of pay shall be made for all periods of unauthorized absences.

Section 3. Any unauthorized absence of six or more consecutive working shifts of a Group A Fire Fighter, or of three or more consecutive working shifts of a Group B Fire Fighter, shall be deemed to be and shall constitute a resignation from employment by the Fire Fighter.

ARTICLE 33. STATION TRANSFERS.

When an opening occurs in a fire station, due to either promotion, demotion, separation from City service, or the creation of a new position, Fire Fighters shall be notified by email from the Fire Chief before the opening is filled. Such memo shall be posted in each station for at least one business week (7 calendar days). Such opening shall be filled by the senior qualified Fire Fighter in the class applying for that position in writing during the time of posting of the email. The Chief shall retain the right to transfer Fire Fighters when an opening as described above is not involved, provided that such transfers shall not be arbitrary or capricious.

ARTICLE 34. LONGEVITY COMPENSATION DURING LEAVE.

Section 1. Longevity compensation as stated above shall be paid to a Fire Fighter while on authorized leave with pay. Such longevity compensation shall not be paid to a Fire Fighter for any month during which such Fire Fighter shall be absent on leave without pay for more than one-half of the working time prescribed for that Fire Fighter's class.

Section 2. Periods of time during which a Fire Fighter is off work due to lay-off or reduction in force and is on valid reinstatement list shall not constitute a break in continuity of service; provided, however, such periods of time shall not be accrued as a part of the actual continuous service necessary to qualify for longevity compensation.

Section 3. Absence without leave shall forfeit all longevity pay for the month in which such absence occurs. For purposes of this section, periods of authorized leave without pay shall not accrue as part of the actual continuous service necessary to qualify for longevity compensation.

ARTICLE 35. ORDER OF REDUCTION.

Section 1. A reduction of the number of Fire Fighter positions in any class shall be made in the following order: part-time, probationary, permanent.

Section 2. Probationary and permanent Fire Fighters shall be laid off on the basis of service in the class being reduced, computed in accordance with Civil Service Rule 37, the Fire Fighter with the least service being laid off first.

ARTICLE 36. ENTRANCE SALARY RATES.

Section 1. Original appointment to any position shall be made at the entrance rate and advancement from the entrance rate within a pay grade shall be by successive steps; provided, however, if the entrance rate is the same as any successive step, appointment shall be made at the highest step with the same rate of pay as the entrance rate. All promotional appointments shall be to the entry level of the higher class which results in at least a 3% increase unless it's the top step. If the entry level is the same as any successive step, appointment shall be made at the highest step with the same rate of pay as the entry level.

Section 2. At the completion of the first year of service, a Fire Fighter shall automatically advance to the next higher rate in the appropriate pay grade, provided his service has been determined by the Fire Chief to be satisfactory. Subsequently, the Fire Fighter shall be automatically advanced to the next higher rate, if any, at the conclusion of each succeeding year of satisfactory service in his class until he has reached the maximum rate of the salary schedule for that class.

Section 3. At the conclusion of a satisfactory one (1) year probation period, the Fire Chief shall certify that the probationary period has been successfully completed.

Section 4. When a Fire Fighter is assigned to duty in a position not previously held by him and such change is not in the nature of a promotion or a demotion, the Fire Fighter shall receive the rate of pay in the salary schedule established for such position that will provide at least the same rate of pay he was receiving in his former position.

Section 5. If, in the opinion of the Fire Chief, the work of a Fire Fighter has not been satisfactory during the year prior to his eligibility for salary advancement, he shall give a statement to the Mayor and Personnel Director showing reason or reasons why the Fire Fighter's work has not been satisfactory. A copy of this statement shall be furnished the Fire Fighter concerned and the Fire Chief shall discuss with the Fire Fighter the reason(s) for his not receiving the pay increases. Any Fire Fighter or the Union shall have the right to the consideration of any request for adjustment in the event that the Fire Chief states that the Fire Fighter's work in the preceding year has not been satisfactory for salary advancement. In such case, the Fire Fighter or Union may submit the matter to the grievance procedure of Article 25. A Fire Fighter who has been denied a pay increase due to unsatisfactory work shall be granted such increase at such time as the Fire Chief determines that his performance has sufficiently improved to justify the increase.

Section 6. In the event that the Fire Fighter did not receive the advancement in salary due him under the provisions of the Article, and it is subsequently determined, in the manner prescribed above, that the Fire Fighter was entitled to this advancement in salary shall be paid to the Fire Fighter from the date on which he was originally entitled to said advancement in salary.

ARTICLE 37. APPOINTMENT PROBATIONARY.

All entrance appointments shall be probationary for a period of one year. All promotional appointments shall be probationary for a period of six months, provided that, any Fire Fighter who previously served in the position in the higher class to which he was promoted, may be credited toward completion of his probationary period with such temporary service not to exceed one hundred and fifty (150) days with the approval of the Fire Chief. At the discretion of the Fire Chief, the probationary period for an entrance or promotional appointment may be extended for an additional period not to exceed six (6) months in cases where a Fire Fighter suffered illness or injury or missed greater than one-third (1/3) of his/her regularly scheduled shifts preventing him/her from being available for full evaluation during the probationary period.

ARTICLE 38. LIGHT DUTY AND LIMITED DUTY ASSIGNMENT.

Section 1. Light duty or modified duty shall mean the temporary assignment of a Fire Fighter to work with medical restriction of duty in the fire department due to a work-related injury during any period in which the Fire Fighter would otherwise be eligible for injury leave benefits. Such assignments shall be referred to within this Article as "Light Duty". Light Duty assignments are limited to a maximum of six (6) months; provided, however, the City may extend the Light Duty assignment until the Fire Fighter reaches maximum medical improvement as determined by the City's designated physician.

Section 2. The salary of a Fire Fighter on Light Duty shall be at least equal to the salary at which he was employed at the time of his injury or illness.

Section 3. During his period of temporary disability, a Fire Fighter shall be entitled to pay pension contributions and shall continue to receive health-medical plan benefits, and accrue credits for sick leave and vacation leave.

Section 4. Upon presentation of a doctor's certificate stating that the Fire Fighter is physically capable of performing all the duties of the position in which he was working at the time of his injury or illness he shall be returned to full duty in that class. If the Fire Chief determines that the work of the Fire Fighter upon return to work is not satisfactory, the Fire Chief may cause the Fire Fighter to be re-examined to determine his ability to perform.

Section 5. Any Fire Fighter who refuses to cooperate in the placement program, by failure to accept or continue in the Light Duty assignment, shall, as of any such refusal be disciplined.

Section 6. Pregnancy Light Duty. Any Fire Fighter who is provided a temporary assignment under this Article as a reasonable accommodation for pregnancy under the ADA or the Pregnant Workers Fairness Act shall be considered a Light Duty assignment. A pregnant Fire Fighter will be allowed to continue working Light Duty, without reduction in regular pay including incentives, up to her delivery date unless otherwise advised by her physician. Upon date of delivery, or sooner on physician's advice, the Fire Fighter will be permitted to take leave consistent with Article 57.

Section 7. Limited duty shall mean a temporary assignment of a Fire Fighter to work in the fire department with temporary medical restrictions of duty due to a non-work-related injury or illness. Limited duty assignments shall be subject to the following limitations and requirements:

(a) The Fire Chief or his designee shall decide on a case-by-case basis if there are limited duty assignments available that fall within the restrictions that the Fire Fighter has been placed under by his/her physician. The distribution of limited duty assignments, removal from a limited duty assignment and/or refusal to establish a limited duty assignment is solely the decision of the Fire Chief. Requests for limited duty assignments shall not be unreasonably denied; provided,

however, denial of a request for a limited duty assignment which would result in more than a total of four (4) limited duty and Light Duty assignments shall be presumed reasonable, and such decision shall not be subject to the grievance procedure.

(b) To be considered for a limited duty assignment, a Fire Fighter must have work restrictions that are expected to last for at least thirty (30) days and provide a signed statement by an authorized medical provider verifying the need for limited duty for said period of time. If available, priority among limited duty assignments shall be given to the Fire Fighter with the least amount of accrued leave.

(c) No Fire Fighter who is injured in the commission of a criminal offense or during any secondary employment shall be eligible for a limited duty assignment with respect to such injury; nor shall any Fire Fighter be permitted to work any secondary employment while on limited duty assignment.

(d) Except as provided herein, a limited duty assignment shall not exceed three (3) months. The limited duty assignment will be accompanied by an expectation meeting with the Fire Chief. Daily assignments will be assigned and will be completed in a timely manner. If at the discretion of the Fire Chief these expectations are not being met by the Fire Fighter, the limited duty assignment will be terminated.

(e) The City may require Fire Fighters to be examined by the City's designated health-care provider in order to obtain verifications, seek clarification or additional information, confirm the ability to perform limited duty assignment or provide a second opinion.

(f) It is the Fire Fighter's responsibility to ensure that any relevant medical information required by the City related to the injury (or injuries) underlying a limited duty assignment is provided promptly upon request, including follow-up information, satisfactory clarification and updates.

(g) Light Duty assignments for work-related illnesses and injuries shall take precedence over limited duty assignments for non-duty related injuries. A Fire Fighter who is working in a limited duty assignment because of non-duty related injury may be displaced from that limited duty assignment if the City needs to place another Fire Fighter into a Light Duty assignment.

(h) A Fire Fighter who is on limited duty shall immediately notify the Department when the Fire Fighter is available for normal duty and shall give the Department a physician's statement indicating that the Fire Fighter may return to normal duty.

(i) While on limited duty assignment the Fire Fighter may request leave through the Deputy Chief. This leave will be converted to a 40 hour work week based on a conversion factor of 1.4. This would include any use of sick leave,

vacation leave or personal holiday time.

Section 8. Fire fighters assigned a Light Duty or limited duty assignment shall work Group A work schedule.

ARTICLE 39. ABOLITION OF POSITION.

Any Fire Fighter with civil service status in an abolished position shall, with the approval of the Mayor, be:

- (a) transferred, if a vacancy exists in another position in the same class, or
- (b) promoted, if a vacancy exists in a position in another class for which the Fire Fighter is eligible, or
- (c) laid off and placed on a reinstatement list for the class for which he is qualified, or
- (d) demoted, or
- (e) allowed to replace another Fire Fighter in accordance with Article 50.

ARTICLE 40. REINSTATEMENT AND REEMPLOYMENT.

Section 1. When a Fire Fighter is reinstated in a position in the same class after a separation from the Department of not more than four years, which separation occurred through no fault of the Fire Fighter and not due to discreditable circumstances, such Fire Fighter shall receive the rate in the salary schedule corresponding to the step rate received at the time of separation and shall subsequently serve thereat for at least such period as is normally required for advancement to the next higher salary rate. Any Fire Fighter who is drafted or who leaves the City service to enter the active service of the armed forces of the United States and who is subsequently reinstated to a position previously held by him shall be entitled to receive a salary at the step rate to which he would have been entitled had his service with the City not been interrupted by entry into the armed forces. Any non-required reenlistment shall automatically terminate the provisions of this Article for any such Fire Fighter.

Section 2. Whenever a former Fire Fighter is reemployed in the same class after a voluntary separation from the City service of not more than two years, which separation was not by action of the City or due to discreditable circumstances, such Fire Fighter may, with the approval of the Mayor, receive the rate in the salary schedule corresponding to the step rate received at the time of separation and shall subsequently serve thereat for at least such period as is normally required for advancement to the next higher step or salary rate.

ARTICLE 41. APPOINTMENT TO VACANCY.

When the City fills a vacancy in the Fire Department the following priorities shall apply in the order listed:

1. Reinstatement list - Consisting of Fire Fighters separated from a position in that class due to layoff or other cause not the fault of the Fire Fighter. Fire fighters shall be reinstated to the class in the reverse order of layoff from that class including Fire Fighters placed on reinstatement lists in accordance with Article 40.

2. The City may then select from any of the following:

a. Reemployment List - Fire fighters previously separated at their volition, in good standing.

b. Voluntary Demotion.

c. If a position is not filled through reinstatement, demotion, or re-employment the City shall fill the position from a civil service eligible list in the following manner:

(a) The Director shall forward a copy of the appropriate class specification to the Civil Service Commission, with a request for certification of the names of the three highest ranking persons on the appropriate eligible list. If any person with a given numerical rating is certified from an eligible list, then any or all other persons with that identical rating shall also be certified and may be appointed under this Section consistent with and pursuant to Civil Service Rule 28.

(b) The Director may also request from the Commission further information relating to the persons certified and to their application, examination or certification process.

(c) If any person so certified fails to accept appointment to the position, that person shall be removed from the list and the name of the person next highest on the appropriate eligible list shall be certified. The Civil Service Commission may retain on the eligible list the name of a person who refuses an appointment only upon that person's request and for just cause. The Director may request removal from the list of the name of a person who does not qualify for or meet a requirement of the position. The Civil Service Commission shall grant such request and certify the name of the next highest ranking eligible on the list, if the person so removed does not actually qualify or meet requirements.

(d) If more than one vacancy is to be filled from an eligible list, the Director may request certification of an additional name for the second and each subsequent vacancy.

(e) If less than three names appear or remain on the eligible list, the Mayor may either request that the Commission establish a new eligible list, or may

accept a certification of less than three names.

(f) If a person certified for appointment from an eligible list is rejected or passed over twice, the Mayor may request removal of the person from that eligible list. The Civil Service Commission may deny such request upon the basis of the person's qualifications.

(g) After a certification, the Director shall select a committee of at least three persons to evaluate the persons certified. No one from the bargaining unit shall be an evaluator.

(h) After consultation with the involved department or bureau head and the committee, the Director shall forward the names of all persons certified and recommendations to the Mayor, who shall make the final appointment.

(i) The City shall notify each eligible certified for a vacancy of the appointment and the appeal rights available hereunder. If not appointed, the highest ranking eligible for each vacancy may appeal his rejection to the Civil Service Commission by filing a written notice of appeal within five (5) days after receipt of the notice of appointment. The Commission shall hear the appeal within (5) days of the filing of the notice of appeal. The City and the individual appointed shall also be notified of the hearing and be given an opportunity to be heard. The person filing the appeal shall have the burden of proving that the Mayor's appointment was arbitrary, capricious or a clearly unwarranted abuse of discretion. If the Commission sustains the appeal, the appointment shall be vacated and the appellant shall be appointed to the position by the Mayor pursuant to the decision of the Commission retroactive to the date of the original appointment.

(j) The Commission shall render its decision within five (5) days after the hearing which shall be final and binding subject only to judicial review pursuant to Rule 106, C.R.C.P.

3. Open Examinations

(a) For vacancies existing in 2017 and thereafter, Civil Service examination for the Emergency Medical Officer classification shall initially only be open to Fire Fighters who meet the qualifications for such classification ("Internal List"). If no applicant passes the examination or is otherwise certified or if all eligibles are removed from the Internal List, the Mayor may request certification of a new eligible list composed of qualified candidates from outside City employment ("External List"). Upon receipt of such request, the Civil Service Commission shall create the External List, and the Civil Service examination shall only be open to those applicants who are not Fire Fighters and who meet the qualifications for such classification. If the External List was created because no applicant passed the examination for the Internal List or no applicant was otherwise certified for the Internal List, such External List shall expire six (6) months from the date of the certification of such External List. If the External List was created because all eligibles were removed from the Internal List, such External List shall expire upon the date the Internal List was originally scheduled to expire.

(b) For vacancies existing in 2018 and thereafter, Civil Service examination for the Fire Engineer classification shall initially only be open to Fire Fighters who meet the qualifications for such classification ("Internal List"). If no applicant passes the examination or is otherwise certified or if all eligibles are removed from the Internal list, the Mayor may request certification of a new eligible list composed of qualified candidates from outside City employment ("External List"). Upon receipt of such request, the Civil Service Commission shall create the External List, and the Civil Service examination shall only be open to those applicants who are not Fire Fighters and who meet the qualifications for such classification. If the External List was created because no applicant passed the examination for the Internal List or no applicant was otherwise certified for the Internal List, such External List shall expire in six (6) months from the date of the certification of such External List. If the External List was created because all eligibles were removed from the Internal List, such External List shall expire upon the date the Internal List was originally scheduled to expire.

ARTICLE 42. RATE OF PAY ON DEMOTION.

When a Fire Fighter is demoted from a position in one class to a position in another class having a lower pay grade, his rate of pay shall be determined as follows:

Section 1. When a Fire Fighter is demoted because of failure to satisfactorily complete a probationary period in a promotional position, his pay rate shall be reduced to the step in the pay grade he had been promoted from which he would be eligible for had he not been promoted.

Section 2. When a Fire Fighter is demoted because of layoff procedures, his rate of pay in the class to which he is demoted shall be the step in the pay grade nearest to, but not exceeding, that of his rate of pay in the higher class, provided funds are available in the case of layoff. In the event funds are not available, his rate of pay shall be the highest step that can equitably be paid to all Fire Fighters similarly affected by the layoff. The Mayor, with the approval of the City Council, may approve for such Fire Fighter a salary rate equivalent to the salary rate he received at the time of his demotion.

Section 3. When a Fire Fighter is demoted due to unsatisfactory performance from a position in one class to a position in a lower class, his rate of pay shall be reduced at least one (1) step below the rate of pay he was receiving in the higher class, and shall be reduced to a step within the pay grade for the class to which he is demoted.

Section 4. When a Fire Fighter is voluntarily demoted from a position in one class to a position in a lower class at his own request, the pay rate may remain the same provided it does not exceed the maximum step of the pay grade for the lower class.

ARTICLE 43. RECLASSIFICATION.

If a position is reclassified, the incumbent shall remain in the reclassified position if the Director, with the approval of the Mayor, determines that he is qualified to perform the duties of the reclassified position.

If the Director determines that the incumbent lacks the qualifications for the reclassified position, the incumbent shall, with the approval of the Mayor, be:

- (a) transferred if a vacancy exists in another position in the same class, or
- (b) promoted, if a vacancy exists for which such Fire Fighter is eligible as a result of examination, or
- (c) laid off and placed on a reinstatement list for the class or position for which he is qualified, or
- (d) demoted, or
- (e) allowed to replace another employee in accordance with Article 50.

ARTICLE 44. REPORTING CHANGES IN DUTIES; RECLASSIFICATION.

Section 1. Any Fire Fighter or the Union may file a written request for classification review of his position at any time. The request shall be filed with the Fire Chief who shall forward the request to the Director of Personnel within ten days with his comments and recommendations.

Section 2. The Director of Personnel shall act on any request involving an individual position within thirty days, and on any request involving several positions as promptly as possible, but not more than ninety days, after receipt of such request. The Director shall not reclassify any position or group of positions without the approval of the Mayor.

Section 3. The Director may, at any time, consistent with Section 4 review a position or positions to insure proper classification.

Section 4. Neither the City, a Fire Fighter, nor representatives of either may request a review for a position which has been reviewed within the previous six months.

ARTICLE 45. APPEAL FROM CLASSIFICATION OR RECLASSIFICATION.

Written notice of classification, reclassification, or allocation of positions shall be given by the Director to the Mayor, Fire Chief, affected Fire Fighters, and Union, at least thirty days before such action shall become effective. Within ten days of receipt of said notice or failure of the Director to take such action, the Fire Chief, affected Fire Fighter(s) or Union may request a hearing thereon before the Civil Service Commission pursuant to Chapter 12 of Title VI of the Code of Ordinances and Section 8-4 of the City Charter. Within ten days after conclusion of the hearing the Civil Service Commission shall order whether such action shall be sustained or rejected.

ARTICLE 46. VACANCIES.

Section 1. Unless the Mayor declares, as herein provided, that the requirements of the service demand that such position remain open, a vacancy shall exist whenever the number of positions established by the budget exceeds the number of Fire Fighters in such positions. Vacancies shall be filled as soon as the Director can certify to the department head as provided in Article 41. The Mayor may, upon written notice to the Director, determine that a position shall remain open for a period not to exceed one hundred eighty-five (185) days. During the time the position is declared open, the eligible list pertaining to that position shall remain frozen and no new list established until action is taken on such position. When a position that has been held open is filled, such position shall be filled by a person named on the appropriate eligible list that was in effect on the date the Mayor declared such position open, even if that person's eligibility has otherwise expired.

Section 2. When a vacancy occurs in any promotional classification, the vacancies, if any, created in all lower classes due to promotional appointments created by appointment to fill such vacancy shall be filled from the eligible lists for all lower classes which were in effect on the date on which the vacancy was created in the higher class. This does not pertain to entry level firefighter positions, and will in no event freeze the current promotional lists.

ARTICLE 47. STRIKES - DISRUPTION OF SERVICE.

It is hereby declared to be the public policy of the City of Pueblo since it has accorded to the members of the classified service of the Fire Department all rights of labor other than the right to strike or organize any work stoppage, slowdown or mass absenteeism, therefore, Fire Fighters shall not strike, or organize any work stoppage, slowdown or mass absenteeism during the term of this Agreement.

ARTICLE 48. INTENT OF THIS AGREEMENT.

The intent and purpose of this Agreement is to establish agreed upon wages, hours, terms and conditions of employment for all Fire Fighters in the bargaining unit represented by the Union, which wages, hours, terms and conditions of employment shall be set as forth in this Agreement for the term of this Agreement unless changes are mutually agreed upon between the City and the Union.

ARTICLE 49. PROMOTIONAL EXAMINATION REQUIREMENTS.

The City of Pueblo reserves the right to establish such minimum job descriptions (specifications) and education, experience and service requirements to determine eligibility for civil service testing and appointment for entry level Fire Fighters, as it deems appropriate. Any ordinance in conflict with such right to establish minimum requirements for entry level Fire Fighters shall, insofar as same may be applicable to Fire Fighters, be deemed repealed and be of no force or effect.

The following minimum service requirements shall be a prerequisite to Civil Service Fire Department promotional examinations:

(1) For Fire Prevention Inspector, two (2) years of service as a Fire Fighter with the City of Pueblo.

(2) For Fire Engineers, a minimum of two (2) years of service as a Pueblo Fire Fighter.

(3) For Emergency Medical Officer, a minimum of the EMT-I certification and two (2) years of service as a Pueblo Fire Fighter or a minimum of a Paramedic certification and at least three (3) years of continuous and successful experience in fire service. Notwithstanding any provision of this Agreement to the contrary, any person appointed to the position of Emergency Medical Officer who did not meet the foregoing service requirement of two (2) years as a Pueblo Fire Fighter shall be treated as an entrance appointment for purposes of rate of pay and probationary period.

(4) For Lieutenant, a total of five (5) years combined service in the Fire Fighter, Engineer, Fire Prevention Inspector or Emergency Medical Officer classification with the City and an ALS certification within 3 years of promotion which shall be a condition of employment in such classification.

(5) For Captain, a total of seven (7) years combined service with at least two (2) years of service in a promotional classification within the Fire Department and an ALS certification.

(6) For Assistant Chief, three (3) years of service as a Captain with the City of Pueblo.

The maximum number of seniority preference points which may be added to a passing score pursuant to Civil Service Rule 25 with respect to the foregoing Fire Department promotional examinations shall be seven and one half (7 ½).

The Department shall make a good faith effort to work with Civil Service on providing six (6) months prior notice of any change in a promotional reading list and the promotional examination dates and three (3) months prior notice of promotional reading list and examination date if no such change in the reading list.

ARTICLE 50. REPLACEMENT.

Any Fire Fighter laid off shall, with the approval of the Mayor, have the right to replace another Fire Fighter without prejudice to the right of either to reinstatement provided the following requirements are met:

(1) The Fire Fighter to be replaced occupies a class having the same or lower pay grade; and

(2) The Fire Fighter laid off has more total service in the class involved, together with service in a higher class or parallel class (engineer, fire medic, or fire prevention inspector) within the same line of promotion, than does the Fire Fighter to be replaced; and

(3) The Fire Fighter laid off is qualified for the duties of the lower class of position as determined by the Director; and

(4) The Fire Fighter to be replaced occupies a lower position in the line of promotion to the position from which the Fire Fighter has been laid off.

ARTICLE 51. DURATION OF AGREEMENT.

This Agreement shall be effective January 1, 2024, and all of its provisions shall remain fully effective through December 31, 2024 and may be extended by the City for two (2) successive one (1) year terms.

The decision to extend the term of this Agreement shall be made by the City Council on or before the 1st day of June 2024, or 2025, whichever the case may be. The extended term shall be upon the same terms and conditions, except that wages during each extended term shall be as provided or otherwise determined pursuant to Section 10.1 of the Agreement. If the City Council shall fail to extend the term of the Agreement as stated above, then either party may commence negotiations for a successor agreement by serving notice pursuant to the City Charter on or before June 21, 2024, or June 21, 2025, as the case may be.

ARTICLE 52. SAFETY.

Section 1. The City recognizes its responsibility to provide safe working conditions, and the Union recognizes its obligation to cooperate in the maintenance and improvement of those conditions.

Section 2. The City agrees to establish a safety committee consisting of a representative of the Union and a representative of the City.

Section 3. The safety committee will consider and make recommendations concerning safety problems. Recommendations will include technical supporting information where applicable.

Section 4. The safety committee shall convene within a reasonable time after a request for a meeting. Any request must indicate the subject to be taken up at the meeting. The City will submit a written position on safety matters raised by the Union within ten (10) days after the meeting.

Section 5. Whenever possible, Department personnel will implement safety recommendations of the Safety Committee.

ARTICLE 53. LIABILITY INSURANCE.

City will carry in at least the minimum amounts set forth in the Colorado Governmental Immunity Act malpractice liability insurance covering Fire Fighter/EMT'S while acting in their capacity as an employee of the City and while licensed by the State of Colorado.

ARTICLE 54. SMOKE FREE WORKPLACE.

In accordance with City Council Resolution No. 7157, smoking by any member of the bargaining unit is prohibited in all public buildings which are owned, leased or controlled by the City of Pueblo, except in designated smoking areas, if any, located in restaurants operated under concession or management agreements with the City.

For purposes of this agreement, the parties understand and agree that Fire Fighters are prohibited from smoking: (a) in any fire department vehicle at any time; and (b) in any fire station or fire department building except in those station truck rooms which are equipped with a ventilation system which ventilates such truck room separately from the remainder of the station.

ARTICLE 55. DEATH AND DISABILITY PLAN.

During the term of this Agreement, the City shall pay, on behalf of all Fire Fighters hired after January 1, 1997, the state-mandated contribution for death and disability coverage pursuant to C.R.S. § 31-31-811 (4).

ARTICLE 56. RANDOM DRUG TESTING.

The City and the Union agree to establish a committee consisting of representatives of the Fire Union, the Police Union, and the City. The committee shall meet, when requested by one of the parties, to study, consider and make recommendations to the parties regarding drug-testing programs for public safety employees. The consultations and recommendations of the committee shall not be subject to the grievance/arbitration procedure of this Agreement and shall not be binding upon any of the parties.

ARTICLE 57. MATERNITY, PATERNITY, AND PARENTAL LEAVE.

Section 1. If a Fire Fighter is eligible to take leave under the Family and Medical Leave Act (FMLA), such leave shall be granted in accordance with the provisions of FMLA with respect to either the birth, adoption or bonding with a child following birth or adoption. Such leave shall be subject to the following:

FMLA Maternity Leave – leave shall be granted in accordance with FMLA and shall be treated as a qualifying health condition of the Fire Fighter for the purposes of medical leave for the birth of a child and then subsequently for post-partum bonding with the child.

A Firefighter taking FMLA leave for the purpose of maternity leave may use sick, vacation and personal holiday leave to cover the absence but must exhaust available paid leave prior to going into an unpaid FMLA leave status.

FMLA Paternity Leave - leave shall be granted to an eligible Fire Fighter in accordance with FMLA for the purpose of bonding with the child following birth.

FMLA Parental Leave – leave shall be granted to an eligible Fire Fighter in accordance with FMLA for the purpose of bonding with an adopted child.

A Firefighter taking FMLA leave for the purpose of paternity or parental leave may elect to use up to three (3) weeks of sick leave prior to using accrued vacation or personal holiday leave for this purpose. However, the Fire Fighter must exhaust all accrued vacation and/or personal holiday leave prior to going into an unpaid FMLA leave status. The Family Care Act provides the same leave provisions for those who are in a domestic partnership or civil union as defined in section 14-15-103(5) C.R.S.

All requests for leave under FMLA must be submitted through the City's Human Resources Department.

Consistent with FMLA, a Fire Fighter who takes FMLA leave for the birth, adoption and/or subsequent bonding time with a child shall return to the job assignment from which he/she took leave for this purpose at the conclusion of the FMLA leave.

Section 2. If a Firefighter is ineligible for leave under the Family and Medical Leave Act, maternity, paternity and parental leave shall be granted for the purpose of giving birth and/or bonding with the Fire Fighter's child. Such leave shall be granted equally in the case of an adopted child. Such leave shall be subject to the following:

Maternity Leave – leave shall be granted upon provision of written documentation from the Fire Fighter's treating physician for the purpose of giving birth followed by post-partum bonding time with the child. Such leave shall not exceed twelve (12) weeks from the date of the child's birth.

A Firefighter taking maternity leave may use sick, vacation and personal holiday leave to cover the absence but must exhaust available paid leave prior to going into an unpaid leave status.

Paternity Leave – leave shall be granted at the time of childbirth, unless otherwise approved by the Chief in advance, and shall not exceed three (3) calendar weeks.

Parental Leave – leave shall be granted at the time of the adoption of a child, unless otherwise approved by the Chief in advance, and shall not exceed three (3) calendar weeks.

A Firefighter taking paternity or parental leave may elect to use up to three (3) weeks of sick leave prior to using accrued vacation or personal holiday leave for this purpose. The exhaustion of paid leave is required prior to going into an unpaid leave status.

ARTICLE 58. PARAMEDIC INCENTIVE.

Section 1. DEFINITIONS. As used in this Article the following terms shall have the following meaning:

(b) “Paramedic Program” shall mean a program of study approved by the City and offered by an institution separate from the City which provides all necessary instruction including clinical internship to obtain a Colorado state licensure as an EMT-Paramedic. Both the program and the institution offering the Program must be approved by the City.

(c) “Qualification Requirements” shall mean having a current Colorado EMT-Basic certificate, an EMT intravenous endorsement and having the present ability to successfully complete all pre-screening examinations and prerequisites and obtain approval by the institution offering the Paramedic Program.

Section 2. PARAMEDIC CERTIFICATION INCENTIVE.

(a) On an annual basis and for purpose of receipt of the Paramedic Incentive, the City shall accept voluntary applications from Fire Fighters who meet the Qualification Requirements and the purpose of the Paramedic Incentive. The purpose of the Paramedic Incentive shall be construed and applied consistent with the exception provided for under 29 C.F.R. 785.29, and the Paramedic Incentive is stipulated and acknowledged to be for the purpose of preparing an employee in the classification firefighter for advancement to a higher classification (“Purpose”). The selection of the applicants to receive the Paramedic Incentive shall be at the sole and absolute discretion of City; provided, however, preference shall be given to those applicants who would start the Paramedic Program prior to their third year of service with the City, and provided that such discretion shall not be exercised in an arbitrary and capricious manner.

(b) Subject to budget approval and appropriation by City Council, the City shall make available the Paramedic Incentive to two (2) applicants who meet the Qualification Requirements and the Purpose. The City may make the Paramedic Incentive available to additional applicants who meet the Qualification Requirements and Purpose but is not obligated to do so.

(c) Any applicant selected to receive the Paramedic Incentive shall receive the following benefits subject to the conditions and limitations herein set forth:

1. Upon receipt of an invoice from a City approved institution, the City will pay the actual costs of tuition and books invoiced by said institution and necessary for completion of the Paramedic Program.

2. Paid time off shall be granted to attend classroom instruction held during the employee’s regularly scheduled hours of work which are necessary for completion of the Paramedic Program and which classroom instruction could not

be scheduled other than during the Fire Fighter's regularly scheduled hours of work.

3. Field internship hours which cannot be completed on Fire Department apparatus shall be scheduled outside of the Fire Fighter's regular working hours; provided, however, paid time off will be granted to complete field internship hours in such circumstances and during the Fire Fighter's regularly scheduled hours of work, but such paid time off shall not exceed thirty-six (36) hours during any calendar week for completion of the field internship.

(d) If a Fire Fighter fails to comply with any requirement set forth in this Article or fails to timely and successfully complete any portion of the Paramedic Program including but not limited to completing the field internship within a period of six months of commencing the field internship or failure to pass the National Registry of Emergency Medical Technicians exam within ninety (90) days of class end date, such Fire Fighter shall be subject to removal from the Paramedic Program. The City shall give written notice of the basis for removal to the Fire Fighter. If the basis for removal remains uncorrected for a period of ten (10) days after City has given written notice, the Fire Fighter shall be deemed removed from the Paramedic Program without further notice to the Fire Fighter; provided, however, the Fire Fighter may file within said ten (10) days written documentation with the City establishing that the failure of the Fire Fighter to timely complete the Paramedic Program was the direct result of an unforeseen and extended leave of absence due to a medical condition or similar emergency. Any Fire Fighter who is unable to timely complete the Paramedic Program due to a qualifying unforeseen leave of absence shall not be obligated to repay the Reimbursement Amount because of such failure. Any Fire Fighter who is removed from the Paramedic Program or is unable to timely complete same due to a qualifying unforeseen leave of absence shall not be eligible to continue to receive the Paramedic Incentive, and City will have no obligation to continue to provide the Paramedic Incentive for such Fire Fighter.

(e) Each Fire Fighter approved to receive the Paramedic Incentive shall apply for the Colorado Opportunity Fund Stipend with respect to any tuition for the Paramedic Program. Any Fire Fighter who fails to apply for such Stipend shall be liable to and shall pay the City the amount of the Stipend. The amount of the Stipend may be deducted and/or set off by the City from any payment or amount owed by City to the Fire Fighter; provided such deduction and/or set off will not result in a wage payment less than the amount required by the applicable minimum wage and/or overtime requirement under the Fair Labor Standards Act of 1938, 29 U.S.C. §201, et seq.

(f) Any Fire Fighter receiving the Paramedic Incentive shall provide any and all documentation requested by City with respect to compliance with any condition or limitation related to the Paramedic Incentive.

Section 3. Union shall cooperate with the City in taking all actions necessary or appropriate to assure that any period of time expended by a Fire Fighter to complete the Paramedic Program which occurs outside the regularly scheduled hours of work of the Fire Fighter shall not constitute hours worked for purposes of overtime pay or compensatory time and to assure that any Fire Fighter prior to applying for the benefit is

aware and understands that any such hours shall not constitute hours worked for purposes of overtime pay or compensatory time.

Section 4. As a condition of receiving the Paramedic Incentive, each Fire Fighter approved to receive the Paramedic Incentive shall execute the Paramedic Incentive Reimbursement Agreement in the form attached to this Agreement and labelled Exhibit 1. The parties stipulate, acknowledge and agree that the costs of the Paramedic Incentive and the amount of the reimbursement obligation (the "Reimbursement Amount") to be set forth in the attached Exhibit 1 is \$13,000, and said amount shall be subsequently increased in like percentage by any percentage increase in the base wage paid the firefighter classification for each year after 2019. The Reimbursement Amount which may become due the City under the Paramedic Incentive Reimbursement Agreement may be deducted and/or set off by City from any payment or amount owed by City to the Fire Fighter; provided such deduction and/or set off will not result in a wage payment less than the amount required by the applicable minimum wage and/or overtime requirement under the Fair Labor Standards Act of 1938, 29 U.S.C. §201, et seq.

Entered into this _____ day of _____, 2023.

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL NO. 3

By _____
President

By _____
Secretary

CITY OF PUEBLO

By _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Attorney for IAFF Local No. 3

EXHIBIT 1

PARAMEDIC TRAINING REIMBURSEMENT AGREEMENT

This PARAMEDIC TRAINING REIMBURSEMENT AGREEMENT ("Agreement") is entered into this ____ day of _____, 20__, by and between Pueblo, a municipal corporation ("City") and _____ ("Employee").

WHEREAS, City and the International Association of Fire Fighters Local 3 have entered into a Collective Bargaining Agreement which provides an incentive to employees to achieve and maintain a Paramedic certification subject to and conditioned upon the employee entering into this Agreement.

WHEREAS, Employee has voluntarily applied for and desires receipt of the incentive subject to the limitations and requirements set forth in Article 58 of the Collective Bargaining Agreement between the City and the International Association of Fire Fighters Local 3 ("CBA").

WHEREAS, the costs and expenses to the City of providing and paying for the incentive are significant and the City will be unable to recoup and/or receive the benefit of such costs and expenses where the Employee prematurely leaves the employment of the City or fails to obtain and maintain a Colorado State licensure as an EMT-Paramedic.

NOW THEREFORE, in consideration of the foregoing and the mutual promises, covenants and conditions herein set forth, City and Employee agree as follows:

1. As used in this Agreement, the following terms shall have the following meanings:

"Liquidated Credit" means twenty percent (20%) of the Reimbursement Amount for each year of service after the date the Employee successfully completes the Paramedic Program and is licensed by the State of Colorado as an EMT-Paramedic. By way of example, the Liquidated Credit for an employee who completes three years of service but not four years of service after obtaining an EMT-Paramedic certificate would be sixty percent (60%) of the Reimbursement Amount.

"Paramedic Program" and "Paramedic Incentive" shall have the same meanings as are set forth in the CBA.

"Reimbursement Amount" means \$_____ as calculated in accordance with the CBA.

2. Employee shall receive the Paramedic Incentive subject to the limitations and requirements set forth in the CBA and conditioned upon the employee entering into this Agreement.

3. If the Employee is removed from the Paramedic Program pursuant to terms of the CBA within the first 6 months of entering the program, the Employee shall be liable to the City and obligated to pay the City the actual costs of books and tuition and said amount shall become immediately due and payable upon the date the Employee is removed from the Paramedic Program.

4. If the Employee is removed from the Paramedic Program pursuant to terms of the CBA after the first 6 months, the Employee shall be liable to the City and obligated to pay the City the Reimbursement Amount, and said amount shall become immediately due and payable upon the date the Employee is removed from the Paramedic Program.

5. In the event the Employee completes the Paramedic Program but fails to keep and maintain Employee's licensure with the State of Colorado as an EMT-Paramedic, Employee shall be liable to the City and obligated to pay the City the Reimbursement Amount less any Liquidated Credit, and said amount shall become immediately due and payable upon the date the Employee no longer has a valid paramedic certification issued by the State of Colorado.

6. In the event the Employee terminates employment with the City, Employee shall be liable to the City and obligated to pay the City the Reimbursement Amount less any Liquidated Credit, and said amount shall become immediately due and payable upon the date of such termination. This article shall not apply to members whom terminate employment due to disability or normal retirement.

7. Any amount of the Reimbursement Amount which becomes due the City may be deducted and/or set off by City from any payment or amount owed by City to Employee; provided such deduction and/or set off will not result in a wage payment less than the amount required by the applicable minimum wage and/or overtime requirement under the Fair Labor Standards Act of 1938, 29 U.S.C. §201, et seq.

8. Employee shall be liable to and will pay City for all collection expenses, court costs and reasonable attorney fees which may be incurred in the collection of any Reimbursement Amount which may become due and payable under this Agreement. 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.

Executed and effective the day and year first above written.

CITY

EMPLOYEE

Mayor

Print Name: _____



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 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 AMENDING SECTION 12 OF CHAPTER 3 OF TITLE XI OF THE PUEBLO MUNICIPAL CODE FOR THE PURPOSE OF ELIMINATING THE DISTANCE RESTRICTION CONTAINED IN SECTION 44-3-313(1)(D)(I), C.R.S., WITH RESPECT TO LODGING AND ENTERTAINMENT LIQUOR LICENSES ON PREMISES LOCATED IN THE THUNDER VILLAGE BUSINESS DISTRICT NEAR THE CAMPUS OF COLORADO STATE UNIVERSITY - PUEBLO

SUMMARY:

Attached for consideration is a text amendment to Section 12 of Chapter 3 of Title XI of the Pueblo Municipal Code, eliminating distance restrictions for Lodging & Entertainment liquor licenses in the Thunder Village Business District.

PREVIOUS COUNCIL ACTION:

Pueblo Municipal Code Section 11-3-12 has been amended in various instances to eliminate or reduce statutory distance restrictions for liquor licensed businesses.

BACKGROUND:

Pursuant to C.R.S. § 44-3-313(1)(d)(I), an application for a liquor license cannot be received or acted upon if the proposed building is located within five hundred (500) feet of any school. This restriction does not apply to businesses that were already licensed before the school opened. A municipality may also by ordinance eliminate or reduce the distance restriction per C.R.S. § 44-3-313(1)(d)(III). The City has previously chosen to alter certain distance restrictions as set out in Pueblo Municipal Code § 11-3-12. The "Thunder Village Business District" is covered by subsection (c) thereof and already eliminates the distance restriction for Hotel and Restaurant liquor licenses. Interested parties have requested that the exemption be expanded to include Lodging & Entertainment liquor licenses, in order to facilitate the development of new businesses in the Thunder Village Business District.

Thunderzone and Lobo's Tacos are currently located in the district and have Hotel and Restaurant liquor licenses. Aside from the proximity of Colorado State University-Pueblo, two schools have also opened within five hundred (500) feet of the businesses in the district.

The proposed ordinance amends Pueblo Municipal Code § 11-3-12 and adds an exception from the five hundred (500) foot distance restriction in the Thunder Village Business District for Lodging & Entertainment liquor licenses.

FINANCIAL IMPLICATIONS:

Not applicable to this Ordinance.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If City Council does not approve this Ordinance, Pueblo Municipal Code § 11-3-12 will not be amended and an exception will not be created in the Thunder Village Business District for Lodging & Entertainment liquor licenses.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 12 OF CHAPTER 3 OF TITLE XI OF THE PUEBLO MUNICIPAL CODE FOR THE PURPOSE OF ELIMINATING THE DISTANCE RESTRICTION CONTAINED IN SECTION 44-3-313(1)(D)(I), C.R.S., WITH RESPECT TO LODGING AND ENTERTAINMENT LIQUOR LICENSES ON PREMISES LOCATED IN THE THUNDER VILLAGE BUSINESS DISTRICT NEAR THE CAMPUS OF COLORADO STATE UNIVERSITY - PUEBLO

WHEREAS, pursuant to Section 44-3-313(1)(d)(I), C.R.S., the Colorado Liquor Code generally prohibits the issuance of any type of liquor license if the building in which liquor is to be sold is located within five hundred (500) feet of the principal campus of any school, college, or university; and

WHEREAS, the Colorado Liquor Code allows the governing body of a municipality to eliminate or reduce such distance restriction for various liquor licenses pursuant to Section 44-3-313(1)(d)(III), C.R.S.; and

WHEREAS, interested parties affected by this ordinance have requested the modification and elimination of the distance restriction in the manner set forth herein, and such request is not unreasonable nor contrary to the public good; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:
(brackets indicate matter being deleted, underscoring indicating matter being added)

SECTION 1.

Section 11-3-12 of Chapter 3 of Title XI of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 11-3-12. - Distance from schools or colleges.

(a) Pursuant to authority granted to the City Council by the Colorado Liquor Code, the five-hundred-foot distance limitation contained in Section 44-3-313(1)(d)(I), C.R.S., is hereby reduced to two hundred (200) feet, provided that this distance reduction shall apply only to bona fide hotel and restaurant businesses, which maintain at least five (5) sleeping rooms for the accommodation of guests and have meals available for consumption at all times when the facility is open to the public.

(b) Pursuant to authority granted to the City Council by the Colorado Liquor Code, the five-hundred-foot distance limitation contained in Section 44-3-313(1)(d)(I), C.R.S., is hereby eliminated, provided that the elimination of this distance restriction shall apply only to bona fide beer and wine, hotel and restaurant, tavern, brew pub, club, arts, vintner's restaurant, and distillery pub liquor licensed businesses located within the Downtown Business District, which shall be defined as the area beginning at the intersection of W 13th and N Elizabeth St., east along centerline of W 13th St. to the center of Interstate 25; thence south along the center of existing or future Interstate 25 to the northern edge of the railroad lines at an approximate location of 38° 15'48.369" N, 104° 36'18.691" W. Thence SW along the northern edge of the railroad to a point on the top of the Arkansas River levee at an approximate latitude and longitude of 38° 15'38.319" N, 104° 36'57.711" W; thence NW along the top of the levee to an approximate location of 38° 15'50.625" N, 104° 37'11.123" W; thence NE at 43 degrees for a distance of ~2139 ft. to the centerline of N Elizabeth St. at

approximately 38° 16'4.9" N, 104° 36'51.34" W; continuing north along the centerline of N Elizabeth St. to the point of beginning at the intersection of W 13th St. and N Elizabeth St. (Map attached as Exhibit A.)

(c) Pursuant to authority granted to the City Council by the Colorado Liquor Code, the five-hundred-foot distance limitation contained in Section 44-3-313(1)(d)(I), C.R.S., is hereby eliminated for: (1) a Hotel and Restaurant Class Liquor License to serve the Occhiato University Center located upon the Campus of Colorado State University-Pueblo, 2200 Bonforte Boulevard, Pueblo, CO 81001; (2) a Hotel and Restaurant Class Liquor License to serve the Neta and Eddie DeRose Thunderbowl located upon the Campus of Colorado State University-Pueblo, 2301 Rawlings Blvd, Pueblo, CO 81001; and (3) Hotel and Restaurant **and Lodging and Entertainment Liquor Licensed**[licensed] businesses located within the Thunder Village Business District, which shall be defined as the area beginning at the intersection of Troy Avenue and future Roma Way; thence north along the centerline of existing or future Troy Avenue to future Stadio Way; thence west along the centerline of future Stadio Way to the eastern boundary and property line of the parcel occupied by the landmark known as the Thunderbowl; thence south and then west along the eastern and southern boundaries and property lines of the parcel occupied by the landmark known as the Thunderbowl to the eastern boundary and property line of the Campus of Colorado State University-Pueblo; thence south along the eastern boundary and property line of the Campus of Colorado State University-Pueblo to future Roma Way; thence southwest along the centerline of future Roma Way to the point of beginning at the intersection of Troy Avenue and Roma Way.

(d) Pursuant to authority granted to the City Council by the Colorado Liquor Code, the five-hundred-foot distance limitation contained in Section 44-3-313(1)(d)(I), C.R.S., is hereby eliminated for a Tavern Class Liquor License to serve the College Center Building including curtilage up to one hundred (100) feet from said building located upon the campus of Pueblo Community College, 900 W. Orman Avenue, Pueblo, CO 81004.

(e) Any license granted under the provisions of this Section shall also be subject to all other applicable provisions of state and local law.

(f) The grant or denial of any application under this Section shall remain within the authority and discretion of the Liquor and Beer Licensing Board.

SECTION 2.

The officers and staff of the City are directed and 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 thirty (30) days after the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

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

☐ Ordinance re-adopted on a vote of _____, on _____

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

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Chris Noeller, Chief of Police

SUBJECT: AN ORDINANCE APPROVING AND ACCEPTING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF PUEBLO ON BEHALF OF THE PUEBLO POLICE DEPARTMENT, THE PUEBLO COUNTY DEPARTMENT OF HUMAN SERVICES, THE PUEBLO COUNTY SHERIFF'S OFFICE, AND THE 10TH JUDICIAL DISTRICT ATTORNEY'S OFFICE WITH RESPECT TO THE INVESTIGATION OF CHILD ABUSE AND NEGLECT CASES, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

The cooperative agreement under consideration sets out the responsibilities of the respective agencies agreeing thereto when it becomes necessary for inter-agency cooperation during child abuse and neglect investigations.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Investigations with respect to child abuse and neglect often involve complex investigations that necessitate a cooperative response by law enforcement and child protection authorities. That being the case, the goal of the cooperative agreement is to foster cooperative joint-decision making while also improving the lines of communication between the participating agencies. This agreement will also provide guidance as to the responsibilities of each agency when joint investigations occur.

FINANCIAL IMPLICATIONS:

This Ordinance does not create any additional financial obligations.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Council can choose to reject the agreement as written, leaving no cooperative agreement in place.

RECOMMENDATION:

Passage of the Ordinance.

ATTACHMENTS:

1. Pueblo Law Enforcement MOU final 7.25.23

ORDINANCE NO.

AN ORDINANCE APPROVING AND ACCEPTING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF PUEBLO ON BEHALF OF THE PUEBLO POLICE DEPARTMENT, THE PUEBLO COUNTY DEPARTMENT OF HUMAN SERVICES, THE PUEBLO COUNTY SHERIFF'S OFFICE, AND THE 10TH JUDICIAL DISTRICT ATTORNEY'S OFFICE WITH RESPECT TO THE INVESTIGATION OF CHILD ABUSE AND NEGLECT CASES, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

SECTION 1.

The Cooperative Agreement between the City on behalf of the Pueblo Police Department, the Pueblo County Department of Human Services, the Pueblo County Sheriff's Office, and the 10th Judicial District Attorney's Office, having been approved by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute the Cooperative Agreement on behalf of the City of Pueblo, and the City Clerk shall affix the Seal of the City thereto and attest same.

SECTION 3.

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

SECTION 4.

This Ordinance shall become effective upon final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

COOPERATIVE AGREEMENT BETWEEN
PUEBLO COUNTY DEPARTMENT OF HUMAN SERVICES,
PUEBLO POLICE DEPARTMENT,
PUEBLO COUNTY SHERIFF'S OFFICE, AND THE 10TH JUDICIAL DISTRICT ATTORNEY'S OFFICE

This Agreement is entered into by and between the Pueblo County Department of Human Services (hereinafter "Pueblo County Department of Human Services", "PCDHS" or the "Department") and the Pueblo Police Department, Pueblo County Sheriff's Office, and the 10th Judicial District (hereinafter "Law Enforcement").

WITNESS

WHEREAS, Colorado law encourages cooperation between local departments of Human Services and local Law Enforcement; and

WHEREAS, from time to time, Pueblo County Department of Human Services and Pueblo Law Enforcement have the responsibility to investigate allegations of child abuse and neglect; and

WHEREAS, the parties hereto desire to memorialize their cooperative arrangement in an effort to assist one another within the confines of the law; and

WHEREAS, by custom, Pueblo County Department of Human Services has taken the prime responsibility to investigate child abuse and neglect cases, and the parties affirmatively state that this Agreement is not intended to change this custom; and

WHEREAS, while each of the undersigned professionals and agencies have specific responsibilities in the treatment, protection, and investigation of children, it is acknowledged that the multidisciplinary team approach on matters of child abuse and neglect is a more positive approach to the ultimate resolution of the problems related to these most difficult situations; and

WHEREAS, the purpose of this agreement is to enhance the ability of agencies, organizations, and individuals to implement coordinated efforts in dealing with children and families involved in child abuse and neglect,

NOW THEREFORE, the parties agree as follows:

PROTOCOL FOR COOPERATION

Child abuse and neglect are community problems requiring a cooperative response by law enforcement and child protection. In order to enhance the inter-disciplinary approach and protect the children of Pueblo County, the following has been agreed upon by the Pueblo County Department of Human Services, hereafter known as ("Department"), the Pueblo Police Department, the 10th Judicial District Attorney's Office, and the Pueblo County Sheriff's Office. This Agreement is not meant to supersede each Agency's current policies and procedures for the investigation of child abuse and neglect cases. The goal of this Agreement is to define the lines of communication between agencies that will result in cooperative, joint decision-making. This Agreement sets forth the respective roles and responsibilities in joint investigations and allows for special requests by one agency for assistance from another agency.

Child abuse reporting laws allow reports to both Law Enforcement and PCDHS. This makes cooperation essential to assure prompt action, protection for the child and the responses required by law. The decision regarding who investigates a suspected child abuse/neglect case shall be made jointly by the referring agency and the receiving agency. A joint investigation may also be requested by the receiving agency if there is a determination of that need.

I. Joint Review and Investigation

A. All child abuse and/or neglect concerns should be made to the hotline. PCDHS has an assigned worker on call twenty-four hours per day, seven days per week. Once the hotline call is made, the law enforcement officer may reach out directly to PCDHS staff to begin planning action steps for an investigation, if the allegations reach the level of a joint investigation. Initial reports of sexual abuse, physical abuse and severe neglect are to be reviewed by the Department or

the law enforcement agency and a decision will be made by those agencies as to the need for a joint investigation. C.R.S. 19-3-307 requires reports of known or suspected child abuse or neglect made and shall be made immediately to the Department or the local law enforcement agency. C.R.S. 19-3-308 (4) (a) mandates that investigations of intra-familial abuse be conducted in conjunction with the local law enforcement agency, to the extent that a joint investigation is possible and deemed appropriate, and any other appropriate agency. C.R.S. 19-3-308 (5.3) (a) designates the local law enforcement agency as having primary responsibility for the investigation of abuse or neglect of a child by a third party. If the law enforcement agency determines that human services are necessary for the child, the agency may request assistance from the Department, forward a copy of its investigative report, and the Department shall immediately respond to the request for services or assistance as deemed appropriate by the Department, pursuant to C.R.S. 19-3-308 (5.3) (b).

Cases of minor and medium abuse/neglect will not require immediate referral to local Law Enforcement by the staff of PC DHS. All Cases of more severe nature require immediate contact with local Law Enforcement depending on jurisdiction.

All reports of suspected and/or confirmed child abuse/neglect shall be forwarded by the Department to the District Attorney's office and the local Law Enforcement agency in accordance with C.R.S. 19-3-307 (3) (a); 12 CCR 2509-2:7.104.15 (C). Law Enforcement will have access to a SharePoint folder. DHS will upload all reports of suspected and/or confirmed child abuse/neglect to the folder(s).

B. Reports that may require a review and joint investigation include:

1. Death of a child as a result of potential child abuse or neglect. Law enforcement may also coordinate investigations with the Coroner's Office
2. Moderate/medium to severe physical abuse by any parent, relative, caregiver, guardian, stepparent, spousal equivalent, boyfriend, girlfriend, and or other persons continuously in the child's home (excluding in home paid day care provider).
3. All serious head trauma injuries suspicious of abuse or neglect.
4. All injuries involving ruptured or damaged major organs, unexplained abdominal injuries, or other injuries consistent with non-accidental trauma.
5. All fractures, which are unexplained, multiple or in various stages of healing or where the reason given for the fracture is inconsistent with the injury.
6. All second or third-degree burns, all cigarette burns, and any other burns consistent with non-accidental trauma.
7. All other serious injuries, including serious bruising or injuries that constitute serious bodily injury as defined by C.R.S. 18-1-901, which are unexplained or inconsistent with the history provided.
8. Non-organic failure to thrive. (Growth failure usually caused by environmental neglect or stimulus deprivation, unlike organic failure to thrive which is most often caused by an acute or chronic physical disorder which inhibits growth)
9. Medical neglect that results in bodily injury, serious bodily injury, or death.
10. Sexual abuse by any parent, relative, caregiver, guardian, step-parent, spousal equivalent, boyfriend, girlfriend, and other persons consistently in the child's home.
11. Repeated law enforcement responses for domestic violence in the child's home.
12. Illegal drug activity in the child's residence.

13. Severe environmental neglect.
14. Suspected danger to county department investigators.
15. When a parent or guardian refuses access to the children by the Department or refuses to permit medical examinations of the children.
16. The need for placement or protective custody is not otherwise specified
17. Physical or sexual abuse in an institution or home day care, day care center, foster home, group home, residential child care facility or institution operation licensed by the Colorado State Department of Human Services.
18. Any other time one agency requires the assistance of the other.

C. In Joint investigations, generally, PCDHS will take the lead in interviewing the victim; and Law Enforcement will take the lead in interviewing the alleged perpetrator. Joint interviews shall be preceded by a planning session to outline the conduct of the interview prior to the investigation. However, some investigations will proceed according to a standard plan of action, while others will require a unique approach.

1. Once it has been determined that a joint investigation will be conducted the following procedures shall be followed:

a) The receiving agency will notify the other agency as soon as possible. Each agency will designate the people to be notified and phone numbers where they can be reached. Record checks will also be completed, and information shared when necessary, by the agencies involved.

b) The Department and the law enforcement agency will collaborate and determine the responsibilities for each. In a criminal investigation the law enforcement agency is the lead investigator, however child protection issues are the primary responsibility of the Department. Issues to be determined include, but are not limited to:

- (1) When to initiate the investigation
- (2) Where to conduct initial interviews (preferably Pueblo Child Advocacy Center for victim children).
- (3) The order of interviews.
- (4) Preservation of evidence.
- (5) Follow up referrals for child and non-offending parent.

c) The decision regarding removal of the children will be made by the Department in coordination with law enforcement and/or juvenile court judge or magistrate.

d) Pursuant to C.R.S. 19-3-308.5, every effort should be made to minimize the number of interviews conducted with a child witness or victim. If additional interviews are necessary to complete an investigation, efforts should be made to have the same interviewer perform them. A competent interviewer according to the standards adopted by the investigating agency must conduct interviews. Interviews should be videotaped when practical and such recordings shall be preserved as evidence in the

manner and for a period provided by law for maintaining such evidence. Law enforcement and the Department will exchange investigative reports.

e) If the child is placed by the Department, the Department will keep the law enforcement agency informed of the child's whereabouts and will inform the law enforcement agency of a contact person within the Department.

f) When a child has been treated for the suspected abuse or neglect injuries or is currently in the hospital, the law enforcement agency and the Department will consult with the treating physicians in order to obtain accurate medical information and additional family information.

g) Law enforcement or the District Attorney's office will notify the Department if criminal charges are filed naming a child in their custody as a victim, the Department will be included as a "victim notification: contact.

h) Law enforcement will notify the department when a child in Department custody is charged with a delinquent act.

2. Other Responsibilities of Investigators

a) All reports shall be investigated within statutory requirements. On reports where law enforcement is not available, child protection will intervene to maintain the safety of the children and the integrity of the investigation.

b) Department staff will be available 24 hours a day to respond to reports or make arrangements with law enforcement to investigate.

c) The alleged perpetrator will be interviewed by both agencies on all joint investigations of intra-familial reports and as requested by law enforcement on third party reports whenever possible.

d) If Department staff are unable to participate in the interview, caseworkers will be allowed to watch the interview whenever possible or have access to video or audio taped interviews.

e) If the alleged perpetrator refuses to be interviewed, the Department will notify the perpetrator of the allegations and document all efforts made to interview the alleged perpetrator.

f) This Agreement is approved with the understanding that all reports of abuse and neglect are unique and may require alternative procedures for completion of the investigation.

g) If custody of a child is obtained by the Department, Department staff is required to provide caregiver a Notice of Rights and Remedies pursuant to C.R.S. 19-3-212.

3. Cases Investigated by the Pueblo County Department of Human Services

a) There are certain cases where the Department will be the primary or sole agency investigating an allegation. The following are types of cases where a joint investigation will not be conducted, unless issues arise during the Department's investigation that indicates law enforcement participation is warranted:

(1) Fetal alcohol syndrome.

(2) Drug exposed infants.

- (3) Sexual abuse when the perpetrator is less than ten years of age.
- (4) Educational neglect.
- (5) Emotional abuse.
- (6) Children with mental health, development disability, or special needs issues.
- (7) Children in need of supervision.

4. Cases Investigated by Law Enforcement Without County Department of Human Services

a) Law enforcement is primarily responsible for investigating criminal cases. The law enforcement agency must forward reports of a child death to the Department, which in turn forwards it to the Colorado State Department of Human Services for tracking purposes. If, during the course of an investigation of third party abuse the law enforcement agency has reason to believe there may be other children at risk, they can request the assistance and involvement of the Department. Examples of these cases are listed below:

- (1) Third party physical abuse.
- (2) Third party sexual abuse, where the perpetrator is over ten, however if the perpetrator is a juvenile and resided with other children, the Department should be notified.
- (3) Physical or sexual abuse in a daycare home or center, foster home, group home, or institution not licensed by the Colorado State Department of Human Services.

5. Case Documentation/Reports

a) The Department will provide law enforcement access to information in the Department's case files, to the extent allowed by law and that is not otherwise subject to privilege or confidentiality protections, during an investigation of child abuse/neglect on the part of either law enforcement or a joint investigation. The Department shall make records available for law enforcement officials. Law enforcement shall contact the intake supervisor to request the necessary documentation. The Department will make every effort to have the information available within 24-72 hours of the request. In the event the Department is in need of a corresponding police report, the Department will direct the request of information to the appropriate contact at the law enforcement agency. Out of state custody orders are a function that may require Court intervention and oversight prior to the release of children into a parent's custody.

6. Upon Completion of the Joint Investigation:

- a) PCDHS will complete their investigation within 60 days from referral date. The assessment will either be closed or opened for services and transferred to an ongoing caseworker.
- (1) PCDHS shall be responsible for determining what measures are necessary for the protection of children, which may include, but not necessarily be limited to the removal of the child (ren) from the home, the filing of a Petition for Dependency and Neglect, and appropriate notification to the Court if removal has occurred.

- b) Law Enforcement determines criminal charges; this shall include the submission of the information to the District Attorney for disposition.

II. Intra-familial Abuse and Neglect

A. The Department is responsible for coordinating the investigation involving intra-familial abuse and neglect.

1. PCDHS shall be responsible for determining what measures are necessary for the protection of children, which may include, but not necessarily be limited to the removal of the child (ren) from the home, the filing of a Petition for Dependency and Neglect, and appropriate notification to the Court if removal has occurred.

a) When a kin provider has been identified and an emergency placement is necessary, the PCDHS will contact law enforcement to request an assessment on whether placement in a particular home would be lawful. In making an assessment, Law Enforcement will complete an NCIC/NCIS background check to determine whether the child is prohibited from the placement pursuant to state/federal law.

(1) When an emergency removal of a child is necessary and a kin/kin-like placement provider has been identified, PCDHS staff member will call PPD or PCSO who shall perform a NCIC/CCIC records check for every adult in the kin/kin-like home. The PPD or PCSO will inform the PCDHS only whether federal and/or state law prohibits such placement with no other information to be provided to the PCDHS. The parties hereto acknowledge active protection/restraining orders and/or convictions for certain crimes automatically prohibit placement including, but in no way limited to:

- (a) Child abuse, as specified in C.R.S. 18-6-401, C.R.S.
- (b) A crime of violence, as defined in C.R.S. 18 1.3 406(B)(I), C.R.S.
- (c) An offense involving unlawful sexual behavior, as defined in C.R.S. 16-22-102(9), C.R.S.
- (d) A felony, the underlying actual basis of which has been found by the court on the record to include an act of domestic violence, as defined in C.R.S. 18-6-800.3(1), C.R.S.
- (e) A felony involving physical assault or a drug-related offense, committed within the preceding five years.
- (f) Violation of a protection order, as described in Section 18-6- 803.5, C.R.S.
- (g) A crime involving homicide.
- (h) An offense in any other state the elements of which are substantially similar to the elements of any one of the offenses described in (a)-(g) above.

III. Third Party Abuse and Neglect

A. The law enforcement agency will be responsible for the coordination and investigation of all third-party abuse and neglect matters, as defined by statute, in conjunction with the Department, if appropriate. Third-party abuse or neglect cases investigated by Law Enforcement as provided in Section 19-3-308(5.3) (a) shall not require immediate notification to PCDHS (with the exception of institutional abuse or neglect). In such cases where law enforcement believes the safety and

protection of a child is at risk due to an act or omission on the care taker's part, the law enforcement agency shall refer to PCDHS. Law Enforcement shall refer to PCDHS any report of third-party sexual abuse in which the person allegedly responsible for such abuse is under 10 years old. Law enforcement will submit a copy of its investigative report to PCDHS to review for determination whether the information constitutes a case of confirmed child abuse and requires the report to be submitted to the states automated system if the case is substantiated.

IV. Amendments/Agreements

A. This Agreement may be amended or revised as agreed upon by the undersigned agencies. Notice of proposed changes to the main body of this Agreement must be submitted in writing and agreed upon by all identified agencies.

V. General Provisions of Cooperative Agreement

A. The intent of this Agreement is to clarify and enhance cooperation between agencies to protect children. It is recognized there may be differing opinions regarding some case decisions. In those cases, referral to supervisory levels would be appropriate. Child Protection teams also may be used for consultation, feedback, and direction regarding cases which have become problematic between agencies. The District Attorney may provide guidance as well.

The undersigned individuals representing their respective agencies have read this document and agree to implement the procedures as outlined.

BY: _____
Nick Gradisar, Mayor
City of Pueblo, Colorado

Date: _____

BY: _____
Tammy Torres, Director
Pueblo County Department of Human Services

Date: _____

BY: _____
Jeff Chostner, District Attorney
10th Judicial District Attorney's Office

Date: _____

BY: _____
David Lucero, Sheriff
Pueblo County, Colorado

Date: _____



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: August 14, 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 MEMORIAL HALL IN THE AMOUNT OF \$6,626 TO SPONSOR THE TIME IS NOW BENEFIT SHOW ON SATURDAY, OCTOBER 28, 2023 AT MEMORIAL HALL

SUMMARY:

Attached for consideration is a request for support of Mad Fresh Production's event in the amount of \$6,626 to sponsor the Time Is Now Benefit Show on Saturday, October 28, 2023 at Memorial Hall.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This event features Morgan J. Cox, The Who and What, Stevie Wonderful, Songs for the Strong, and others during this benefit show to fly Morgan to L.A. Produced by Mad Fresh Productions, this event will take place on Saturday, October 28, 2023 at 6 pm and tickets are \$10. This sponsorship will cover the costs of the rental of Memorial Hall.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$6,626 would be paid from the Council Contingencies Account in the 2023 General Fund Budget to Pueblo Memorial Hall.

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. Memorial Hall Show Mad Fresh
2. PMH - Anticipated Expense Worksheet
3. 2023 Contingencies (Council) Memorial Hall

RESOLUTION NO.

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO PUEBLO MEMORIAL HALL IN THE AMOUNT OF \$6,626 TO SPONSOR THE TIME IS NOW BENEFIT SHOW ON SATURDAY, OCTOBER 28, 2023 AT MEMORIAL HALL

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$6,626 from the Council Contingencies Account in the 2023 General Fund Budget is authorized to be paid to Pueblo Memorial Hall to sponsor the Mad Fresh Productions event on Saturday, October 28, 2023.

SECTION 2.

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

SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: August 14, 2023

BY: Vicente Martinez Ortega

MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK



MAD FRESH PRESENTS
PRODUCTIONS

EVENT LIVE FROM
MEMORIAL HALL

THE TIME IS NOW

BENEFIT SHOW "FLY MORGAN TO LA"

SPECIAL FEATURES

MORGAN J. COX
THE WHO AND WHAT
STEVIE WONDERFUL
SONGS FOR THE STRONG
AND OTHERS

10\$
ENTRY TICKET

SAT. 10.28.2023
DOORS OPEN AT 6PM

VIP AVAILABLE/FREE PARKING/ALL AGES

RESERVATION CALL : (719) 583-4961
TICKETS : [TICKETFASTER.COM](https://www.ticketmaster.com)



1 City Hall Place
Pueblo, CO 81003
p. 719.542.1100
f. 719.583.9351
www.pueblomemorialhall.com



Anticipated Expense Worksheet

Group: Mad Fresh Productions - Fundrasing Event
Event Dates: Saturday, October 28, 2023
Group Contact: Javier Quinones
Event Type: Concert

Number of Days	Space	Rate	Total
1	Memorial Hall - Non-Profit Rate	\$ 1,900.00	\$ 1,900.00
	Room Rental Subtotal		\$ 1,900.00
	Total		\$ 1,900.00

Quantity	Labor Estimate			
28	Outsourced Security Company 4 guards at 7 hours	\$ 25.00	\$ 700.00	Estimate
36	Ushers/Ticket Takers - 6 staff at 6hrs each	\$ 18.00	\$ 648.00	Estimate
5	Box Office Staff - 1 at 5hrs each	\$ 18.00	\$ 90.00	Estimate
				Estimate - Based off discussion today
1	Production - Audio, Lighting, Flyman, Stagehands, Pre-Hang Operations Labor - Setup, Event, & Clean Up 2 employees @ 8 hours	\$ 3,000.00	\$ 3,000.00	
16	Subtotal	\$ 18.00	\$ 288.00	
			\$ 4,726.00	
	Labor Total		\$ 4,726.00	

Insurance (Client may provide own insurance per contract requirements if desired. Amount included for estimate purposes only)

\$ 1.25 \$ -

Venue is exclusive for all ticket sales. \$3 Facility fee will be added to each ticket price and passed on to consumer.

Venue will establish convenience fees for online and phone sales based on promoter ticket price

Licensee Responsible for 3.5% sales total on all Credit Card Charges. Estimate only. Actual will depend on credit transactions.

Estimated

Total Anticipated Charges \$ 6,626.00

The authorized signature states that you have read the entire estimate and understand that prices may vary based on actual selections.

Client's Signature: _____

Date: _____

[illegible]



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Heather Graham, President

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO THE PUEBLO CHAMBER IN THE AMOUNT OF \$2,500 TO SUPPORT THE 3RD ANNUAL PUEBLO CHILE BALLOON FEST ON SEPTEMBER 22-24, 2023

SUMMARY:

Attached for consideration is a request for support of the 3rd Annual Pueblo Chile Balloon Fest from September 22-24, 2023.

PREVIOUS COUNCIL ACTION:

Council sponsored this event for \$2,500 in 2022.

BACKGROUND:

City Council Member Heather Graham is requesting \$2,500 in support of the 3rd Annual Pueblo Chile Balloon Fest from September 22-24, 2023. The Pueblo Chile & Frijoles Festival has become a flagship event for the City of Pueblo. The recently added Balloon Fest sees hot air balloons fly in the early morning, 7 am - 9 am, creating a longer and greater experience for the locals and out-of-town visitors. The balloon festival also draws a different crowd that might not attend the event otherwise. There is also a balloon "glow" at 7 pm on Friday and Saturday as part of the festival attractions. Over 150,000 people attend the Chile & Frijole Festival over the 3 days spanning 10 city blocks. Mayor Gradisar will use his contingencies to match this sponsorship for a total of \$5,000. The Greater Pueblo Chamber is acting as the fiscal sponsor for this event.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$2,500 would be paid from the Council Contingencies Account in the 2023 General Fund Budget to the Pueblo Chamber.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

City Council could choose not to authorize funding for this event.

RECOMMENDATION:

This Resolution is at the request of Council President Heather Graham.

ATTACHMENTS:

1. 2023 Contingencies (Council) Hot Air Balloon
2. 2023BalloonFestSponsorSchedule
3. 2023SponsorShipLevels
4. SponsorshipInfoForm2023

RESOLUTION NO. 15342

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO THE PUEBLO CHAMBER IN THE AMOUNT OF \$2,500 TO SUPPORT THE 3RD ANNUAL PUEBLO CHILE BALLOON FEST ON SEPTEMBER 22-24, 2023

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$2,500 from the Council Contingencies Account in the 2023 General Fund Budget is authorized to be paid to the Pueblo Chamber for the 3rd Annual Pueblo Chile Balloon Fest.

SECTION 2.

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

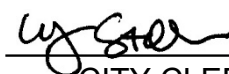
SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: August 14, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

[illegible]

PUEBLO CHILE BALLOON FEST
September 22-24th, 2023
Tentative Schedule

All balloon flights and glows are weather permitting

Friday:

6:45 am – possible media flight from the Launch Field at 24th & High.

5:30 pm - Pilot and sponsor meet & greet dinner

7:00 pm – Chile Ristra Balloon glow on the riverwalk, corner of So Main St & Alan Hamel Ave (gentle winds permitting)

Saturday Morning – Balloon Launch

6:15 am - Meet at the Launch fields - 24th & High St just east of Langoni Soccer Field

6:30 am - Pilots briefing and inflation

6:45 - 7:00 am -- Balloon Launch

After flight – meet back at the field for catered tailgate lunch, post flight ceremony and re-fueling

Saturday Evening – Balloon Glow

7:00 pm – Chile Ristra Balloon glow on the riverwalk corner of So Main St & Alan Hamel Ave (gentle winds permitting)

Sunday Morning – Balloon Launch

6:15 am - Meet at the Launch fields - 24th & High St just east of Langoni Soccer Field

6:30 am - Pilots briefing and inflation

6:45 - 7:00 am -- Balloon Launch

After flight – meet back at the field for catered tailgate lunch, post flight ceremony and re-fueling



September 22-24th, 2023
3rd ANNUAL PUEBLO CHILE BALLOON FEST
SPONSORSHIP LEVELS

\$1,500 Level

Hot air balloon ride for 2 people (weather permitting)
Balloon Basket Banner (Sponsor Name)
Advertising in Balloon Fest printed program & online publications
Company Logo on Balloon Fest banners at main gates of Chile Festival & launch field
Friday night meet & greet with the balloon pilots & crew
Saturday after flight tail-gate
4 each 3 day passes to the Chile and Frijole Festival & 2 Pueblo Chile Balloon Fest t-shirts

\$2,500 Level

Hot air balloon ride for 3 people (weather permitting)
Balloon Basket Banner (Sponsor Name)
Advertising in Balloon Fest printed program & online publications.
Medium Company Logo on Balloon Fest banners at main gates of Chile Festival & launch field
Friday night meet & greet with the balloon pilots & crew
Saturday after flight tail-gate
6 each 3 day passes to the Chile and Frijole Festival & 3 Pueblo Chile Balloon Fest t-shirts
Digital, Social Media, Radio and Print Advertising
Logo included on Official Poster, Festival T-shirt & 75,000 Entertainment Guides

\$5,000 Level

Hot air balloon ride for 4 people (weather permitting)
Balloon Basket Banner (Sponsor Name)
Advertising in Balloon Fest printed program & online publications
Large Company Logo on Balloon Fest banners at main gates of the Chile Festival & launch field
Friday night meet & greet with the balloon pilots & crew
Saturday after flight tail-gate
8 each 3 day passes to the Chile and Frijole Festival & 4 Pueblo Chile Balloon Fest t-shirts
Digital, Social Media, Radio and Print Advertising
Logo included on Official Poster, Festival T-shirt & 75,000 Entertainment Guides

2023 Pueblo Chile Balloon Fest Sponsor Form

Business Information - as it should appear in marketing:

Business Name			
Business Address:			
Business Phone:			
Company Website:			
Contact Person:			
Contact Phone#			
Contact Email			

Sponsorship Level:	\$1,500	\$2,500	\$5,000	T-shirt
Please circle one				Size
Passenger Names:				

I would love to participate in the following way: Please list your donation intentions, for example what you are willing to donate for in-kind services, volunteerism, committee member, etc.

Please make checks payable to the Greater Pueblo Chamber of Commerce and mail your check with a copy of this form to:

Pueblo Chamber of Commerce
 Balloon Fest
 302 Santa Fe Dr
 Pueblo, CO 81003

Please email a digital file of your logo to cbeyond@live.com as soon as possible. If you have any questions on the format of the file please contact Sally at 719-250-3500
 valid formats are .jpg / .png / .bitmap



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Larry Atencio, Councilor

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO COLORADO STATE FAIR FIESTA COMMITTEE IN THE AMOUNT OF \$2,000 TO SPONSOR THE FIESTA DAY PARADE ON SEPTEMBER 3, 2023 AT 10 AM

SUMMARY:

Attached for consideration is a request for support of the Colorado State Fair Fiesta Committee in the amount of \$2,000 to sponsor the Fiesta Day Parade on September 3, 2023 at 10 am.

PREVIOUS COUNCIL ACTION:

Council supported the Colorado State Fair Fiesta Committee with a table sponsorship for \$300 this year. City Council has supported other programs from the Colorado State Fair Fiesta Committee in 2014 and 2019.

BACKGROUND:

The Fiesta Day parade is one of the biggest attractions during the Fiesta Day Celebration at the Colorado State Fair. Thousands of people attend to watch flag-bearers, musical marching bands, cheerleaders, dancers, cars, beautifully decorated floats, and more. Expect dazzling floats with dance-inducing traditional music, eye-catching performances, and grand decorations on cars and horses. It's a day everyone can enjoy and experience this vibrant culture together.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$2,000 would be paid from the Council Contingencies Account in the 2023 General Fund Budget to Colorado State Fair Fiesta Committee.

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 Larry Atencio.

ATTACHMENTS:

1. 2023 Contingencies (Council) Fiesta Day Parade
2. fiesta day parade poster

RESOLUTION NO. 15343

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 \$2,000 TO SPONSOR THE FIESTA DAY PARADE ON SEPTEMBER 3, 2023 AT 10 AM

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$2,000 from the Council Contingencies Account in the 2023 General Fund Budget is authorized to be paid to Colorado State Fair Fiesta Committee to sponsor the Fiesta Day Parade on September 3, 2023 at 10 am.

SECTION 2.

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

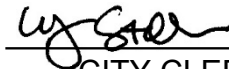
SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: August 14, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

DATE	BALANCE IN 2023 CONTINGENCIES ACCOUNT		DEBIT	CREDIT	BALANCE
	Beginning Balance				\$ 100,000.00
1/9/23	Latino Chamber 44th Annual Dinner		\$ 2,000.00		\$ 98,000.00
1/9/23	Mount Carmel Veterans Service Center Salute to Heroes		\$ 2,500.00		\$ 95,500.00
1/23/23	Steelworks Center for the West - CF&I Faces of Steel Event		\$ 1,000.00		\$ 94,500.00
1/23/23	PCC Foundation Hall of Fame Award Event		\$ 1,000.00		\$ 93,500.00
1/23/23	Catholic Charities Espiritu Dinner		\$ 1,500.00		\$ 92,000.00
2/13/23	Boys & Girls Club Champions of Youth Dinner		\$ 1,600.00		\$ 90,400.00
2/13/23	Pueblo Police Department Awards Dinner		\$ 650.00		\$ 89,750.00
2/27/23	Southern Colorado Equality Alliance Spring Fling Banquet		\$ 560.00		\$ 89,190.00
2/27/23	Pueblo Friends of the Arkansas Trout on the Route		\$ 300.00		\$ 88,890.00
2/27/23	Pueblo Food Project Sun Soil Water Ag Summit		\$ 2,000.00		\$ 86,890.00
2/27/23	The Place Community Block Party		\$ 1,000.00		\$ 85,890.00
3/13/23	Hip Hop Festival - Mad Fresh Productions		\$ 1,500.00		\$ 84,390.00
3/13/23	HARP Rollin' on the Riverwalk Event		\$ 9,000.00		\$ 75,390.00
3/13/23	Press Club Sheepdip Awards Dinner		\$ 1,000.00		\$ 74,390.00
4/10/23	County Courthouse Lighting Ceremony		\$ 500.00		\$ 73,890.00
4/10/23	Latino Chamber Tostada Event		\$ 2,000.00		\$ 71,890.00
4/10/23	Child Advocacy Center April Campaign		\$ 1,000.00		\$ 70,890.00
4/10/23	Soco Harm Reduction/GAPP for Gun Buyback Program		\$ -		\$ 70,890.00
4/10/23	Downtown Association Levee Walk		\$ 700.00		\$ 70,190.00
4/24/23	SocoYogo/United Way Carnival		\$ 1,000.00		\$ 69,190.00
4/24/23	Pueblo Heritage Museum Slovenian Exhibit		\$ 1,000.00		\$ 68,190.00
4/24/23	Southern Colorado Equality Alliance Pueblo Pride Event		\$ 750.00		\$ 67,440.00
4/24/23	Bessemer Historical Society DBA Steelworks Center for the West - Contribution to EPA's Environmental Justice Collaborative Problem-Solving (EJCPS) Grant		\$ 8,000.00		\$ 59,440.00
4/24/23	El Movimiento Sigue Cinco de Mayo		\$ 2,000.00		\$ 57,440.00
5/8/23	Caring for Colorado - Youth Action Council		\$ 1,000.00		\$ 56,440.00
5/8/23	Pueblo Memorial Hall - Pueblo Has Talent 2023		\$ 5,189.00		\$ 51,251.00
5/22/23	Ultimate Performance Sports Training & Rehab Youth Scholarships		\$ 2,000.00		\$ 49,251.00
5/22/23	Goodnight Barn Preservation, Inc. - Chuckwagon Rendezvous		\$ 5,000.00		\$ 44,251.00
5/22/23	Mariachi Juvenil Diamante workshop		\$ 1,500.00		\$ 42,751.00
6/12/23	Sangre de Cristo Arts Center Anniversary Gala		\$ 1,500.00		\$ 41,251.00
6/12/23	Colorado State Fair Fiesta Committee - Noche de Fiesta		\$ 300.00		\$ 40,951.00
6/26/23	Pueblo Friends of the Arkansas Summer Solstice		\$ 250.00		\$ 40,701.00
7/10/23	Latino Veterans Profiles in Courage Awards		\$ 1,500.00		\$ 39,201.00
7/10/23	PDI Dancing with the Pueblo Stars		\$ 1,000.00		\$ 38,201.00
7/10/23	Southeastern Colorado Heritage Center Indigenous People's Exhibit		\$ 6,000.00		\$ 32,201.00
7/24/23	Global Medical Response - Safety Jam		\$ 1,000.00		\$ 31,201.00
7/24/23	Pueblo Memorial Hall - The Time is Now Benefit by Mad Fresh		\$ 6,626.00		\$ 24,575.00
8/14/23	Colorado State Fair Fiesta Committee - Fiesta Day Parade		\$ 2,000.00		\$ 22,575.00
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COLORADO STATE FAIR FIESTA DAY PARADE

SEPT.. 3, 2023 @ 10AM
NORTHERN AVE., PUEBLO, CO.



Celebración De Amigos Y Familia



PARADE REGISTRATION - KEN BUENO
KBUENO.CSFFIESTAPARADE@GMAIL.COM
(719) 821-2327





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Sarah Martinez, Councilor

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO THE PUEBLO POLICE ACTIVITIES LEAGUE (PPAL) IN THE AMOUNT OF \$2,000 TO SPONSOR THE RONCALLI MIDDLE SCHOOL AND RISLEY MIDDLE SCHOOL FOOTBALL TEAM'S EQUIPMENT

SUMMARY:

City Council Member Sarah Martinez is requesting \$2,000 to support the Pueblo Police Activities League (PPAL) to offset the costs of new football equipment at Roncalli and Risley Middle Schools.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

City Council Member Sarah Martinez is requesting \$2,000 to support the Pueblo Police Activities League (PPAL) to offset the costs of new football equipment at Roncalli Middle School and Risley Middle School. The football team has found themselves with no equipment with which to start their season, which supports hundreds of young student athletes. The PPAL is acting as fiscal sponsor for the purchase of new equipment such as helmets and gear.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$2,000 would be paid from the Council Contingencies Account in the 2023 General Fund Budget to Pueblo Police Activities League.

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. 2023 Contingencies (Council) PPAL Roncalli

RESOLUTION NO. 15344

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO THE PUEBLO POLICE ACTIVITIES LEAGUE (PPAL) IN THE AMOUNT OF \$2,000 TO SPONSOR THE RONCALLI MIDDLE SCHOOL AND RISLEY MIDDLE SCHOOL FOOTBALL TEAM'S EQUIPMENT

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$2,000 from the Council Contingencies Account in the 2023 General Fund Budget is authorized to be paid to the Pueblo Police Activities League for Roncalli Middle School and Risley Middle School football team equipment.

SECTION 2.

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

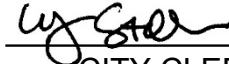
SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: August 14, 2023

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

DATE	BALANCE IN 2023 CONTINGENCIES ACCOUNT	DEBIT	CREDIT	BALANCE
	Beginning Balance			\$ 100,000.00
1/9/23	Latino Chamber 44th Annual Dinner	\$ 2,000.00		\$ 98,000.00
1/9/23	Mount Carmel Veterans Service Center Salute to Heroes	\$ 2,500.00		\$ 95,500.00
1/23/23	Steelworks Center for the West - CF&I Faces of Steel Event	\$ 1,000.00		\$ 94,500.00
1/23/23	PCC Foundation Hall of Fame Award Event	\$ 1,000.00		\$ 93,500.00
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3/13/23	HARP Rollin' on the Riverwalk Event	\$ 9,000.00		\$ 75,390.00
3/13/23	Press Club Sheepdip Awards Dinner	\$ 1,000.00		\$ 74,390.00
4/10/23	County Courthouse Lighting Ceremony	\$ 500.00		\$ 73,890.00
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4/10/23	Child Advocacy Center April Campaign	\$ 1,000.00		\$ 70,890.00
4/10/23	Soco Harm Reduction/GAPP for Gun Buyback Program	\$ -		\$ 70,890.00
4/10/23	Downtown Association Levee Walk	\$ 700.00		\$ 70,190.00
4/24/23	SocoYogo/United Way Carnival	\$ 1,000.00		\$ 69,190.00
4/24/23	Pueblo Heritage Museum Slovenian Exhibit	\$ 1,000.00		\$ 68,190.00
4/24/23	Southern Colorado Equality Alliance Pueblo Pride Event	\$ 750.00		\$ 67,440.00
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5/22/23	Ultimate Performance Sports Training & Rehab Youth Scholarships	\$ 2,000.00		\$ 49,251.00
5/22/23	Goodnight Barn Preservation, Inc. - Chuckwagon Rendezvous	\$ 5,000.00		\$ 44,251.00
5/22/23	Mariachi Juvenil Diamante workshop	\$ 1,500.00		\$ 42,751.00
6/12/23	Sangre de Cristo Arts Center Anniversary Gala	\$ 1,500.00		\$ 41,251.00
6/12/23	Colorado State Fair Fiesta Committee - Noche de Fiesta	\$ 300.00		\$ 40,951.00
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8/14/23	Pueblo Memorial Hall - The Time is Now Benefit by Mad Fresh	\$ 6,626.00		\$ 24,575.00
8/14/23	Colorado State Fair Fiesta Committee - Fiesta Day Parade	\$ 2,000.00		\$ 22,575.00
8/14/23	Pueblo Chile Hot Air Balloon Fest	\$ 2,500.00		\$ 20,075.00
8/14/23	Pueblo Police Activities League (PPAL) Roncalli/Risley Football Equip	\$ 2,000.00		\$ 18,075.00
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**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 14, 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: A RESOLUTION CONFIRMING THE APPOINTMENT OF GEORGE A. HYPOLITE TO THE POSITION OF CITY ATTORNEY

SUMMARY:

The Mayor has appointed George A. Hypolite to the vacant position of City Attorney and requests confirmation of said appointment by the City Council. Such appointment is based on Mr. Hypolite's education, training, experience, and fitness for the position.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

The former City Attorney, Daniel Kogovsek, retired from the position effective May 31, 2023. The City engaged in national search to fill this critical position in the City. During the recruitment period, Robert Jagger, Assistant City Attorney, has been serving as the Interim City Attorney.

After a series of interviews, the Mayor selected Mr. George A. Hypolite to fill this position. Part of the selection process included a verification of his qualifications which demonstrated Mr. Hypolite's extensive and diverse legal background. The Mayor is confident that this makes him not only a qualified candidate for the position, but ideal.

Mr. Hypolite has most recently served in the capacity of Assistant Attorney General for the for the State of Colorado's Department of Law. In this capacity, he acted as the public contracting expert within the Transportation Unit of the Attorney General's Office performing duties such as general counsel to the Colorado High-Performance Transportation Enterprise (HPTE) which included the Bridge and Tunnel Enterprise, Clean Transit Enterprise and Non-Attainment Area Air Pollution Mitigation Enterprise. and handling all transactional activities such as negotiations and drafting complex agreements with the Colorado Department of Transportation (CDOT) and their

governmental partners and private parties. He also advised on open meetings, open records, TABOR, innovative surface transportation delivery, public-private partnerships, public finance and CDOT procurement and rulemaking matters.

In his legal employment over the past ten years, Mr. Hypolite has represented the Department of Aviation in matters relating to Denver International Airport, managed legal teams responsible for both commercial and municipal legal matters which have included counsel services for a multi-million dollar lending portfolio. He has garnered skills in national and international construction projects and contracts, litigation, annual budgets, infrastructure, and personnel matters.

Mr. Hypolite has earned his Doctorate of Law from the University of San Diego School of Law and a Bachelor's in Ethnic Studies/Women's Studies from the University of Colorado.

Considering his vast range of legal knowledge and his desire to make a difference in our community, the appointment of Mr. Hypolite to the position of City Attorney will only add to the success of Pueblo's future.

FINANCIAL IMPLICATIONS:

The salary and benefits of the City Attorney have been budgeted and appropriated within the 2023 budget.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

Failure to confirm the appointment of the City Attorney will result in that position remaining vacant.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15345

A RESOLUTION CONFIRMING THE APPOINTMENT OF
GEORGE A. HYPOLITE TO THE POSITION OF CITY
ATTORNEY

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of George A. Hypolite to the vacant position of City Attorney; and

WHEREAS, Mr. Hypolite meets and surpasses the qualifications for appointment as the City Attorney based upon his education, training, and experience; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The appointment by the Mayor of George A. Hypolite as City Attorney is hereby confirmed.

SECTION 2.

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

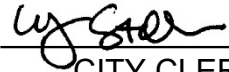
SECTION 3.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 14, 2023

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 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 (1) APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND FOMCORE, A MICHIGAN LIMITED LIABILITY COMPANY, RELATING TO A JOB CREATING CAPITAL IMPROVEMENT PROJECT AND (2) APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A REAL PROPERTY CONVEYANCE AGREEMENT AND RELATED QUITCLAIM DEED BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE PUEBLO DEVELOPMENT FOUNDATION, A COLORADO NONPROFIT CORPORATION, RELATING TO A PARCEL OF IMPROVED LAND LOCATED IN THE PUEBLO MINNEQUA INDUSTRIAL PARK AND (3) TRANSFERRING SIX MILLION FIVE HUNDRED THOUSAND DOLLARS (\$6,500,000) FROM THE 1992-2026 SALES AND USE TAX CAPITAL IMPROVEMENT PROJECTS FUND FOR THE PURPOSE OF SAID CONVEYANCE AGREEMENT AND (4) TRANSFERRING ONE MILLION SEVEN HUNDRED AND FORTY THOUSAND DOLLARS (\$1,740,000) FROM THE 1992-2026 SALES AND USE TAX CAPITAL IMPROVEMENT PROJECTS FUND FOR THE PURPOSE OF THE CITY OF PUEBLO'S COMPLIANCE WITH SAID EMPLOYMENT AGREEMENT

SUMMARY:

Attached is an Ordinance approving and authorizing the Mayor to sign the following agreements:

- Employment Agreement between the City of Pueblo and Fomcore LLC, a Michigan limited liability company ("Fomcorp");
- Real Property Conveyance Agreement between the City of Pueblo and the Pueblo Development Foundation ("PDF") for the transfer of 200 Greenhorn Dr, Pueblo, CO 81003 to PDF to be leased by PDF to Fomcorp;

- Special Warranty Deed transferring 200 Greenhorn Dr., Pueblo, CO 81003 to PDF

PREVIOUS COUNCIL ACTION:

Ordinance No. 9712 (June 8, 2020) approved an agreement wherein the facility located at 200 Greenhorn Dr., Pueblo, CO 81008 was previously constructed by PDF as a shell building and transferred to the City of Pueblo following construction.

BACKGROUND:

Fomcorp is a Michigan company specializing in the manufacturing of foam furniture for educational and healthcare facilities. Fomcorp has a need to open a 2nd manufacturing facility in the United States regionally located to serve the western portion of the United States. Fomcorp plans to lease the facility located at 200 Greenhorn Dr., Pueblo, CO 81004. Fomcorp plans to employ a minimum of 87 full time employees for not less than thirty-five (35) hours per week with an average annual salary for full-time employees of not less than \$41,000 plus benefits. Fomcorp will receive a rent abatement in an amount not to exceed One Million Seven Hundred Forty Thousand Dollars (\$1,740,000).

The facility located at 200 Greenhorn Dr., Pueblo, CO 81008 was previously constructed by PDF as a shell building. The facility was transferred to the City of Pueblo following construction. In order to lease the facility, certain improvements need to be completed. It is estimated that an addition \$6.5 Million dollars is necessary to complete the improvements. This is in addition to the previously allocated dollars for the construction of the building.

With respect to such construction and related Real Property Conveyance Agreement with Pueblo Development Foundation ("PDF"), PDF was formed in 1964 as a Colorado nonprofit corporation to promote economic development within the City of Pueblo and the areas surrounding the City. For more than fifty years, PDF has helped start up businesses and assisted existing businesses in relocating to Pueblo County and thereby has acquired expertise in economic development.

Section 14-4-85.5 of the Pueblo Municipal Code ("Criteria Ordinance") provides that the City Council may authorize the expenditure of monies from the 1992-2026 Sales and Use Tax Capital Improvement Projects Fund ("Half-Cent Tax Fund") for the acquisition of land and construction of so-called shell buildings or the acquisition, remodeling and renovation of existing buildings for the purpose of making such buildings available for applicants or potential applicants who meet the standards and criteria of this Chapter.

FINANCIAL IMPLICATIONS:

With respect to the Real Property Conveyance Agreement, the City has agreed to transfer up to \$6.5 million dollars from the Half-Cent Tax Fund to PDF for the construction improvements needed for the purpose of making the building available and in order to lease to Fomcorp based upon plans and specifications already prepared by Nakai & Associates for the work

contemplated by this Agreement.

With respect to the Employment Agreement, City funds will be made available out of the 1992-2026 Sales and Use Tax Capital Improvement Projects Fund for rent abatements to Fomcorp as follows:

Dates	Location	Maximum Abatement of Rents
March 1, 2024 to June 30, 2024	200 Greenhorn Dr.	No rent
July 1, 2024 to March 31, 2031	200 Greenhorn Dr.	\$ 1,740,000
Total		\$ 1,740,000

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, Fomcorp will not locate its new facility to Pueblo, CO.

RECOMMENDATION:

The Pueblo Economic Development Corporation recommends approval of this Ordinance.

ATTACHMENTS:

1. Conveyance Agreement between City and PDF
2. Lease between Fomcorp and PDF
3. PDF Deed of Trust -200 Greenhorn Dr
4. Special Warranty Deed - City to PDF 200 Greenhorn
5. Redlined Background Paper - As Amended by CA Office
6. Redlined Ordinance - As amended by CA Office

ORDINANCE NO. 10520

AN ORDINANCE (1) APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND FOMCORE, A MICHIGAN LIMITED LIABILITY COMPANY, RELATING TO A JOB CREATING CAPITAL IMPROVEMENT PROJECT AND (2) APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A REAL PROPERTY CONVEYANCE AGREEMENT AND RELATED QUITCLAIM DEED BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE PUEBLO DEVELOPMENT FOUNDATION, A COLORADO NONPROFIT CORPORATION, RELATING TO A PARCEL OF IMPROVED LAND LOCATED IN THE PUEBLO MINNEQUA INDUSTRIAL PARK AND (3) TRANSFERRING SIX MILLION FIVE HUNDRED THOUSAND DOLLARS (\$6,500,000) FROM THE 1992-2026 SALES AND USE TAX CAPITAL IMPROVEMENT PROJECTS FUND FOR THE PURPOSE OF SAID CONVEYANCE AGREEMENT AND (4) TRANSFERRING ONE MILLION SEVEN HUNDRED AND FORTY THOUSAND DOLLARS (\$1,740,000) FROM THE 1992-2026 SALES AND USE TAX CAPITAL IMPROVEMENT PROJECTS FUND FOR THE PURPOSE OF THE CITY OF PUEBLO'S COMPLIANCE WITH SAID EMPLOYMENT AGREEMENT

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

SECTION 1.

The City Council finds and determines that (1) the expenditure of up \$6,500,000 improvements of the building located at 200 Greenhorn Dr., Pueblo, for the job creating capital improvement project by the Pueblo Development Foundation, a Colorado nonprofit corporation ("PDF") described in the attached Real Property Conveyance Agreement, meets and complies with the criteria and standards established by Section 14-4-85.5 of the Pueblo Municipal Code and will create employment opportunities justifying the expenditure of public funds; and (2) the expenditure of \$1,740,000 for a job creating capital improvement project with Fomcore LLC a Michigan limited liability company ("Fomcorp") described in the attached Employment Agreement is for a public purpose and in furtherance of a municipal function and will create employment opportunities justifying the expenditure of public funds. The City Council further finds the incentives granted to the Formcorp hereby meet the standards established by Section 14-4-85 of the Pueblo Municipal Code.

SECTION 2.

The following agreements, all dated August 14, 2023, copies of which are attached hereto and are incorporated herein by this reference, having been approved as to form by the City Attorney, are hereby approved:

- Employment Agreement between the City of Pueblo and Fomrcorp;

- Real Property Conveyance Agreement between the City of Pueblo and the Pueblo Development Foundation ("PDF") and with respect to the transfer of 200 Greenhorn Dr, Pueblo, CO 81003 to PDF to be leased by PDF to Fomcorp;

The Mayor is authorized to execute and deliver said agreements in the name of the City and the City Clerk is authorized to fix the seal of the City thereto and attest same. The Mayor is further authorized to execute and deliver a Special Warranty Deed and related documents at closing, transferring 200 Greenhorn Dr, Pueblo, CO 81003 to PDF.

SECTION 3.

Funds in the aggregate amount of \$6,500,000 are hereby authorized to be transferred, expended and made available out of the 1992-2026 Sales and Use Tax Capital Improvement Projects Fund for the sole purpose of the job creating capital improvement project authorized herein and in the manner described in the attached Real Property Conveyance Agreement. The funds hereby authorized to be transferred and expended shall be released, disbursed and paid by the City's Director of Finance as specified in the attached Real Property Conveyance Agreement.

SECTION 4.

Funds in the aggregate amount of \$1,740,000 are hereby authorized to be transferred, expended and made available out of the 1992-2026 Sales and Use Tax Capital Improvement Projects Fund for the sole purpose of the job creating capital improvement project authorized herein and in the manner described in the attached Employment Agreement. The funds hereby authorized to be transferred and expended shall be released, disbursed and paid by the City's Director of Finance as specified in the attached Employment Agreement.

SECTION 5.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the attached agreements which are necessary or appropriate 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 July 24, 2023.

Final adoption of Ordinance by City Council on August 14, 2023.



President of City Council

Action by the Mayor:

☒ Approved on August 17, 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

REAL PROPERTY CONVEYANCE AGREEMENT
(200 GREENHORN DRIVE, PUEBLO, CO 81004)

THIS REAL PROPERTY CONVEYANCE AGREEMENT ("Agreement") is entered into this 14th day of August, 2023 ("Effective Date") by and between the City of Pueblo, a Colorado municipal corporation ("City") and the Pueblo Development Foundation, a Colorado nonprofit corporation ("PDF"). City and PDF are sometimes referred to herein as a "Party" and collectively, as the "Parties. WITNESSETH:

WHEREAS, the City owns Lot 1, Minnequa Industrial Park, Fifth Filing, County of Pueblo, State of Colorado located at 200 Greenhorn Drive in Pueblo County, Colorado. The land is improved with an approximately 45,000 square foot shell building with approximately 40,500 square feet allocated to manufacturing/warehouse space, and approximately 4,500 square feet allocated for office space on approximately 4.50 acres of land. The land and improvements are collectively referred to herein as the "Property"; and

WHEREAS, PDF had previously acquired the land and constructed the shell building improvements thereon for economic development purposes pursuant to an agreement with the City. At the conclusion of the construction improvements in March 2022, PDF conveyed the Property to the City; and

WHEREAS, the FomCore, LLC., a Michigan Limited Liability Company ("Company"), desires to enter into a lease agreement for the Property, but the shell building must first be made suitable for occupancy through the construction and installation of certain improvements, including a concrete floor, electrical, gas, and water utilities, loading docks and certain interior finishes, and the like; and

WHEREAS, the City desires to have PDF commence and complete the further construction needed to make the shell building suitable for occupancy and thereafter to manage the lease transaction with the Company; and

WHEREAS, Section 14-4-85.5 of the Pueblo Municipal Code ("Criteria Ordinance") provides that the City Council may authorize the expenditure of monies from the 1992-2026 Sales and Use Tax Capital improvement Projects Fund ("Half Cent Tax Fund") for the acquisition of land and construction of buildings and infrastructure improvements within the Minnequa Industrial Park; and

WHEREAS, by entering into this agreement with PDF, the City will create employment opportunities justifying the expenditure of public funds; and

WHEREAS, in order to facilitate the further construction and management of the Property, the City is willing to convey title to the Property to PDF upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and in further consideration of the mutual covenants, terms, and conditions set forth herein, City and PDF agree as follows:

1. City hereby encumbers and appropriates monies from the Half Cent Tax Fund in the amount of up to six million five hundred thousand dollars (\$6,500,000.00) (the "City Funds") for use and expenditure by PDF for the additional construction of improvements to the shell

building on the Property as herein set forth, subject to and contingent upon all of the terms, conditions, and covenants of this Agreement PDF agree to perform and comply with.

2. PDF shall use the plans and specifications prepared by Nakai & Associates for the construction of the additional improvements to the Property. Said plans and specifications shall be filed with the City, and work shall not be performed until and unless the same are approved by the City, which approval shall not be unreasonably withheld.

3. All construction contracts for the work contemplated by the approved plans and specifications ("Construction Contracts") shall be awarded by competitive bidding. PDF shall invite general contractors holding Building Contractors-A (General Unlimited) licenses having their principal place of business in the City or County of Pueblo who are qualified and experienced to perform construction work for the Project ("Local Contractors") to submit bids. PDF may invite other qualified general contractors with their principal place of business outside of Pueblo County, Colorado to submit bids. PDF shall assure that the same scope of work to be bid is timely furnished to each general contractor invited to bid. PDF will use its best efforts in good faith to award the construction contract to the lowest qualified bidder. A similar provision with respect to local subcontractors and suppliers shall govern their engagement by PDF and/or the General Contractor, both of whom shall use their best efforts in good faith to engage local subcontractors and suppliers for such construction. After ranking the bids received, PDF shall enter into one or more Construction Contracts for the work and cause the construction to be expeditiously completed, and PDF shall timely pay all contractors for work upon the Project. PDF shall not allow nor suffer any mechanics liens to be filed upon the Project and in the event any such liens are filed, shall cause the same to be promptly removed.

4. City funds will be disbursed by City to PDF solely for the costs and expenses of design and construction, including expenses incurred by PDF on the project contemplated by this agreement prior to the execution of this agreement, if any, and all of which are in accordance with the plans and specifications prepared by Nakai & Associates. PDF will be paid a fee of five percent (5.00%) of the total construction expenditures. In the event the costs in the design and construction exceeds the amount specified in Section 1, such costs shall promptly be paid by PDF and not by City. Upon the completion of the construction project, any unspent City funds remaining as of that date shall revert to the Half Cent Tax Fund.

5. PDF represents and warrants that no person, entity, or organization has been employed or retained or will receive or be paid, directly or indirectly, any commission, percentage, contingent fee or any other remuneration, payment, or receipt of which is contingent upon approval of this Agreement or City's advancement of City Funds to PDF hereunder unless specified in this Agreement. For breach or violation of this warranty, City shall have the right to terminate this Agreement, or recover the full amount of such commission, percentage, contingent fee or other remuneration, and/or to seek such other remedies legally available to City, which remedies shall be cumulative.

6. Upon the approval and execution of this Agreement by both parties and subject to and conditioned upon (a) the execution of an employment agreement by and between Company and City; and (b) the execution and delivery by PDF of a lease agreement ("Lease") for the Property with the Company in form and content acceptable to the City Attorney and as contemplated by the employment agreement (herein (a) and (b) shall be referenced as the "Condition Precedents", City will execute and deliver to PDF a Special Warranty Deed, conveying title to the Property to PDF. No City funds shall be dispersed to PDF under this Agreement until satisfaction of the Condition Precedents.

7. All rent and other payments received by PDF under the Lease shall be held in trust by PDF for the benefit of the City and, immediately after receipt thereof by PDF, PDF shall deliver and pay the rent to the City. PDF may charge Company, but not City, a quarterly management fee in an amount equal to five percent (5.00%) of the quarterly rent due to be retained by PDF as reimbursement to PDF for its expenses incurred in participating in the lease transaction as Lessor.

8. PDF shall not sell, encumber, or otherwise transfer the Property, except as is provided and set forth in the lease with the Company. Upon the expiration or sooner termination of the lease in accordance with its terms, PDF shall convey the Property back to the City, by Special Warranty Deed, unless the Parties mutually agree to a continuation of ownership by PDF to facilitate further economic development projects.

9. PDF shall perform all covenants and conditions on the part of the Lessor to be performed under the lease and shall enforce all covenants and conditions to be performed under the lease on the part of the Lessee. PDF shall timely give written notice to the City of any of Lessee's defaults under the lease. PDF's obligation under this Agreement shall be secured by a first Deed of Trust on the Property and PDF shall execute and deliver to the City its Deed of Trust in a form and content approved by the City Attorney.

10. If PDF defaults in the performance in any covenant or provision of this Agreement and/or of the lease, PDF shall within ten (10) days after written demand is given to PDF by the City, convey title to the Property to City by Special Warranty Deed, free of liens and encumbrances, except those liens and encumbrances existing at the time PDF acquired title to the Property and further, PDF shall assign the lease with the Company to the City. The obligations of this paragraph may be specifically enforced and a violation of the provisions of this paragraph may be restrained or such obligations enforced by injunction, without the posting of a bond, at the instance and request of City without the showing of any special damages or an inadequate remedy at law.

11. If any provision of this Agreement is declared by a Court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the other provisions of this Agreement which shall remain in full force and effect.

12. The provisions of this Agreement are, and will be, for the benefit of City and PDF only, and not for the benefit of any third party and, accordingly, no third party shall have any right or remedy hereunder or the right to enforce any provision of this Agreement.

13. This Agreement shall be binding upon and inure to the benefit of the City and PDF and their respective successors and assigns, provided that PDF may not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of City.

14. The covenants and agreements set forth in this Agreement are covenants running with the Property and shall survive the execution, delivery, and recordation of the Special Warranty Deed to PDF and shall not merge nor be deemed to have merged by or into such deed of conveyance to PDF.

Executed at Pueblo, Colorado, the day and year first above written.

**CITY OF PUEBLO, A COLORADO
MUNICIPAL CORPORATION**

**PUEBLO DEVELOPMENT FOUNDATION
A COLORADO NONPROFIT
CORPORATION**

By _____
Mayor

By _____
President

Attest: _____
City Clerk

Attest: _____
Secretary

Approved as to form:

City Attorney

LEASE AGREEMENT
(200 GREENHORN, PUEBLO, CO 81004)

THIS LEASE AGREEMENT ("Lease") is made the 14th day of August, 2023, between the Pueblo Development Foundation, a Colorado nonprofit corporation (hereinafter called "PDF"), and Fomcore, LLC (hereinafter called the "Company"). Company and PDF are sometimes referred to herein as a "Party" and collectively, as the "Parties."

1. Leased Premises Defined.

Subject to satisfaction of the terms and conditions contained in this Lease, PDF agrees to lease to the Company and the Company agrees to lease from PDF, the following real property situated in the County of Pueblo, State of Colorado, to-wit:

LOT 1 MINNEQUA INDUSTRIAL PARK, FIFTH FILING FORMERLY #15-230-02-008

more commonly known by street and number as: 200 Greenhorn Dr., Pueblo, CO 81004 ("Leased Premises"). The Leased Premises shall be leased subject to and subordinate to all easements, reservations, restrictions, covenants, limitations, rights-of-way and conditions of record and the zoning and subdivision regulations and resolutions of the City of Pueblo ("City").

2. Term and Extended Term.

2.1. The Term of this Lease shall begin on March 1, 2024 and shall end on March 31, 2032. The Company may be permitted limited early access to the Leased Premises assuming it does not conflict with the final buildout thereof.

2.2. Provided Company is not in default of its obligations under this Lease beyond any applicable notice and cure periods, Company may extend the Term as follows: Company may exercise one (1) ten (10) year renewal option by providing written notice to PDF by March 1, 2032 ("Renewal Term"). Rent for the Renewal Term shall be calculated and determined at an annual rate per square foot of \$6.50. The Parties acknowledge and agree that there is no monetary abatement of the rent due during the Renewal Term.

3. Rent.

3.1 Company, subject to Sections 3.2 and 3.4 below, agrees to pay rent at the completion of each three-calendar month period commencing on January 1, April 1, July 1 and October 1 of each calendar year ("Quarter") to PDF during the initial Term of this Lease as follows:

Dates	Annual rate per square foot	Rent amount per Quarter
March 1, 2024 to June 30, 2024	Free Rent	Free Rent
July 1, 2024 through March 31, 2032	\$5.50	\$ 61,875
Lease total		\$ 1,918,125

3.2 Each Quarter ("Quarterly") during the Term of this Lease, Company shall be entitled to receive monetary abatements of the payment of rent, but in no event in excess of the Total Lease Abatement amount set forth below, based upon the number of Full-Time Employees (as defined in the Employment Agreement between the Company and the City of even date herewith ("Employment Agreement")) employed by the Company on the Leased Premises, as follows:

- Quarterly Abatement Per Employee: \$711.20

Total Lease Abatement (if 87 employees): \$1,740,000.00

For example, if for the third Quarter of the second year of this Lease, the number of Quarterly Employees (as defined in the Employment Agreement) is 60, the gross amount of rent due and payable by Company to PDF remains at \$61,875. The monetary abatement will reduce the net amount of rent payable by Company (in excess of the monetary abatement) to PDF to be \$61,875-\$42,672 (60 x \$711.20) = \$19,203. The Parties agree that during the Term of this Lease, Company shall be entitled to receive a rent abatement up to a maximum of 87 employees per Quarter for these Leased Premises. Under no circumstances will Company be entitled to receive monetary abatements of rent in excess of \$1,740,000 nor shall it be entitled to receive any additional financial compensation from PDF or the City should Company's workforce exceed 87 employees.

3.3 Notwithstanding any other provision of this Lease, Company agrees to pay PDF a Quarterly management fee in the amount of \$3,094. Company's obligation to pay this Quarterly management fee is absolute and unconditional and shall not be offset, abated, reduced or withheld for any cause whatsoever.

3.4 Other Rent Terms

- a. Within fifteen (15) days after the end of each Quarter of this Lease, Company will submit to the City's Director of Finance or designee, Company's statements showing the Quarterly Employees and their aggregate salaries paid in the preceding Quarter and the basis upon which Quarterly Employees and Company's Quarterly rent payment were computed, certified by an officer of the Company to be true and correct. The Quarterly Employee report is based on the definition of Full-Time Employee as defined in the Company's Employment Agreement with the City of Pueblo. For purposes of verifying such employment, upon reasonable notice the City and PDF shall have access to Company's records relating to Company's employees employed during each such Quarter. Except in the event of any action filed by PDF to enforce this Lease, PDF shall treat such information as confidential and shall not disclose (except pursuant to a subpoena or court order) such information to any third party other than those employees of PDF or the City who have a need to know such information; provided, however, that if an enforcement action is filed, PDF shall continue to keep such information confidential other than as necessary to pursue such action and shall cooperate with Company efforts to obtain a protective order covering such information.. During the Term of this Lease, Company shall remit payment of the rent for the preceding Quarter when Company files its Quarterly statements relating to Company's employees employed during each such preceding Quarter.
- b. On or before September 30 of each year during the Term, Company, PDF and the City shall review the total average number of employees employed by Company through the preceding four (4) Quarters (July 1st through June 30th). If the average number employees total a minimum of 87 employees with the agreed upon average wage in the Employment Agreement, Company shall be entitled to an additional rent refund, up to a Maximum Abatement of Rent as defined in the Employment Agreement, for the average number of employees employed in the preceding four (4) Quarters, up to 87, which exceed the rent abatement actually received. For example, if Company received total rent abatement for the previous

4 Quarters in the amount of \$227,584.00 (80 employees x \$711.20 per Quarter x 4 Quarters), however the average number of employees is a minimum of 87 employees, Company would be entitled to an additional \$19,916 rent refund payable within sixty (60) days of such review and determination by City.

Maximum 4 Quarter rent credit	\$247,500
Credit received on 80 jobs	\$227,584
Rent refund on 7 jobs (87-80)	\$19,916

3.5 All Quarterly rent and other payments required to be made by Company hereunder which shall remain unpaid thirty (30) days after their due dates shall bear interest at the rate of ten percent (10%) per annum until paid. All rent and other payments shall be made at or mailed by United States mail to the following address: Pueblo Development Foundation, 301 N. Main St., Suite 210., Pueblo, CO 81003, or such other address as PDF may from time to time designate to Company in writing. The existence of default interest on unpaid rent shall not alter, nor shall it be construed or interpreted to alter, or confer a grace period after, the due date of the rent as set forth in Section 3.4 above.

3.6 It is the intent of the Parties hereto that this Lease be a "net" lease with PDF incurring no obligation, monetary or otherwise, for any expense of any nature associated with the use and operation of the Leased Premises and any component part thereof by the Company.

4. Use of Leased Premises.

4.1. Company shall use the Leased Premises in a careful, safe and proper manner in compliance with all laws and regulations applicable to the Leased Premises and Company's use thereof. Company shall not cause, maintain or permit any nuisance or waste in, on, or about the Leased Premises.

4.2. The Leased Premises shall be used and occupied by Company exclusively for commercial purposes associated with or incident to Company's established business activities and for such other activities of Company as are reasonably incident thereto. Company shall not abandon nor cease to conduct business on the Leased Premises for any period longer than thirty (30) consecutive days.

4.3 The Parties agree that Company shall be allowed to construct improvements in or to the Leased Premises during the Term of this Lease. All expenses associated with such construction shall be paid by the Company. The Parties further agree that any improvements shall not be made or constructed without PDF's prior written consent which consent shall not be unreasonably withheld or unduly delayed. In connection with the construction of such improvements, Company shall not permit or allow any lien to be filed or recorded against the Leased Premises or PDF's or Company's interests therein. During and prior to any work on the Leased Premises, PDF and its agents shall have the right to enter the Leased Premises to post and keep posted thereon such notice or notices as are specified in C.R.S. Section 38-22-105(2). All improvements made in or to the Leased Premises by Company with PDF's consent shall become part of the Leased Premises and shall be surrendered with the Leased Premises at the termination of this Lease. In addition, all such improvements shall be constructed in compliance with the building codes, zoning and land use regulations of the City and in compliance with all laws and regulations applicable to the Leased Premises and Company's use thereof.

4.4. All equipment, fixtures and improvements of a detachable or temporary nature installed or placed upon the Leased Premises by Company, including trade fixtures, shall remain

the property of Company, subject to Company's right, at its option, to remove same not later than thirty (30) days after termination of this Lease. Company shall repair all damage to the Leased Premises caused by such removal. The failure of Company to remove its equipment, fixtures and detachable improvements within thirty (30) days after termination of this Lease shall, at the option of PDF, be deemed an abandonment of such property and PDF may dispose of such property, at Company's expense, in a manner as PDF, in its sole discretion, may determine.

4.5. PDF shall not be obligated to repair, replace, maintain or alter the Leased Premises or any component part thereof. PDF will assign any warranties relating to the building to the Company. Company, at its expense, shall keep and maintain the Leased Premises, including, without limitation, the buildings, structural components including but not limited to foundation, floors, roofs and walls, fixtures, and electrical, heating, mechanical, plumbing and air conditioning systems, and adjacent sidewalks and parking area, in good condition and repair and in a good, clean and safe condition at all times and return the same to PDF in good condition and state of repair, except for ordinary wear. The duty of the Company to repair and maintain includes the duty to replace where repair or maintenance will not restore the component or system to good working condition.

4.6. If Company becomes obligated to make repairs and/or replacements which are or may be covered by any manufacturer's or General Contractor's warranty issued to or for the benefit of Company, Company will assign and transfer to PDF, Company's interest in any such warranty at the termination of this Lease. If any such warranty may not be legally assigned, Company, at the request of PDF, will in good faith enforce such warranty on behalf of PDF.

4.7. If Company becomes obligated to make repairs or install replacements caused by an occurrence covered by the insurance described in Section 7.4.3 hereof, the net proceeds of such insurance shall be made available to Company to offset the cost of such repairs, subject to the requirements of Section 28.1 hereof.

4.8. Signs. All signs and signing identification for the Premises and the placement thereof shall be subject to and made in compliance with the regulations of any governmental authority having jurisdiction at the premises. All costs related to such signage shall be paid by Company. Company shall obtain any necessary permits from governmental authorities for the erection and maintenance of its signs.

5. Condition of Leased Premises.

5.1 EXCEPT AS SPECIFICALLY SET FORTH IN THIS LEASE, IT IS UNDERSTOOD AND AGREED THAT PDF IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTY OR REPRESENTATION OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE LEASED PREMISES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OR REPRESENTATION AS TO HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ZONING, PHYSICAL OR ENVIRONMENTAL CONDITIONS, INCLUDING THE PRESENCE OF HAZARDOUS MATERIALS, UTILITIES, GOVERNMENTAL APPROVALS, COMPLIANCES OF THE LEASED PREMISES WITH GOVERNMENTAL LAWS, THE TRUTH, ACCURACY OR COMPLETENESS OF ANY DOCUMENT OR OTHER INFORMATION PROVIDED TO COMPANY BY ANY OTHER PERSON OR ANY OTHER MATTER OR THING REGARDING THE LEASED PREMISES.

5.2 The taking of possession of the Leased Premises by Company after the Commencement Date shall be conclusive evidence that the Company accepts the Leased Premises in its then present condition "As Is, Where Is, With All Faults" and that the Leased

Premises are in good and satisfactory condition at the time of the commencement of this Lease. In the event that PDF fails to complete the construction of improvements to the Leased Premises in accordance with the plans and specifications prepared by Nakai & Associates and entitled "200 Greenhorn Dr., Tenant Finish, Issued for Permit 06/28/23" and to obtain a Certificate of Occupancy from the Pueblo Regional Building Authority for the building on the Leased Premises on or before March 1, 2024, Company may terminate this Lease and upon such termination shall have no further obligations or liability of any nature under this Lease. Notwithstanding anything else in this Lease, should any latent hazardous condition, including but not limited to any Hazardous Material, as defined in Section 10.1, be discovered on the Leased Premises after commencement of the Term, about which Company had no knowledge and which was not discovered upon reasonable inspection prior to the commencement of the Term, the Company will have at its sole discretion the ability to terminate the lease. In such case, the Company will have no further obligations hereunder. Should Company decide not to terminate this Lease, Company shall be responsible for remediation costs and may request that PDF share the expenses associated with such remediation. Company and PDF understand that PDF cannot make any agreement on cost sharing without the expressed approval of the City.

6. Right of Entry.

Subject to Company's security requirements, PDF or PDF's officers, employees, agents and representatives, as the case may be, may enter the Leased Premises for the purpose of ensuring compliance with the terms of this Lease during normal business hours upon no less than 48 hours written notice to Company, except notice shall not be required in case of emergency, such as fire. In addition, PDF or its officers, employees, agents, and representatives may enter the Leased Premises during the last month of the initial term or any renewal term for the purposes of showing the premises to prospective new tenants.

7. Insurance and Indemnification.

7.1. PDF's Indemnity. PDF shall defend, indemnify and save harmless Company and its agents, employees, members and managers against all costs (including, without limitation, reasonable attorneys' fees), damages or claims whether for personal injury, bodily injury or property damage, during the Term of this Lease, occurring on the Leased Premises, if caused by an act or omission by PDF or its agents or employees.

7.2. Company's Indemnity. Company shall defend, indemnify and save harmless PDF and its agents and employees against all costs (including, without limitation, reasonable attorneys' fees), damages or claims whether for personal injury, bodily injury or property damage, during the Term of this Lease, occurring on the Leased Premises, if caused by an act or omission by Company or its agents or employees, arising out of Company's operations or Company's use or occupancy of Leased Premises, except to any extent caused by an act or omission by PDF or its agents or employees.

7.3. PDF's Insurance.

Liability Insurance. During the Term of this Lease, PDF must maintain insurance covering PDF's liability for ownership and use of the Leased Premises. Such insurance must provide limits of not less than \$1 million with respect to injury to any one person, \$1 million with respect to any one occurrence and \$500,000 with respect to property damage arising out of any one occurrence.

7.4. Company's Insurance.

7.4.1. Liability Insurance. During the Term, Company must maintain insurance covering Company's liability for occupation and use of the Leased Premises. Such insurance must provide limits of not less than \$1 million with respect to any one occurrence, \$2 million aggregate, and \$500,000 with respect to property damage arising out of any one occurrence.

7.4.2. Worker's Compensation Insurance. Company shall maintain and keep in force an "all-employees" compensation insurance policy as required under the laws of the State of Colorado.

7.4.3. Fire and Extended Coverage Insurance.

7.4.3.1. Company shall, at its expense, during the Term of this Lease, secure and maintain in full force and effect "All-Risk" property insurance (including, without limitation, fire, extended coverage and all risk perils including mechanical breakdown) upon the Leased Premises. Such insurance shall be in an amount not less than the full replacement value of the buildings and improvements and issued by an insurance company or association authorized to issue such policies under the laws of the State of Colorado and approved by PDF; shall name PDF as an additional insured and shall not be subject to cancellation, reduction or modification upon less than thirty (30) days' written notice to PDF. At the request of PDF, Company will furnish to PDF evidence of such insurance and its continuance during the Term of this Lease.

7.4.3.2. Company shall, at its expense, secure and maintain fire and extended coverage insurance on all fixtures, equipment and improvements installed by Company on the Leased Premises. Such insurance, by its terms or by endorsement, shall waive any right of subrogation of the insurer against PDF and its respective officers, agents and employees, for any loss or damage resulting from covered perils.

7.5. Insurance Requirements. All insurance required to be carried by the Parties hereunder shall be issued with a company or companies licensed and authorized to conduct business in the State of Colorado with an A.M. Best rating of B+ or higher, the Parties further agree to provide each other with copies of certificates of insurance for all policies required.

7.6. Waiver of Subrogation for Liability Insurance Policies. The Parties to this Lease hereby release each other and their respective officers, agents, managers, directors, and employees from any and all claims and demands for loss, damages, expense or injury to any person or to the Leased Premises or to personal property, to the extent such loss is covered by such Parties' liability insurance policies. The Parties shall each obtain from their respective insurers waivers of rights of subrogation where allowable, which the insurer of one Party might have against the other Party and PDF and Company shall each indemnify the other against any loss or expense, including reasonable attorneys' fees, resulting from the failure to obtain such waivers of subrogation.

8. Taxes.

8.1. Sales and Use Taxes. Company shall pay, before delinquency, any and all sales and use taxes levied or charged in connection with the construction of any improvements made by any person or entity other than PDF and by or on behalf of the Company on or to the Leased Premises and any of the personal property belonging to Company and situated on the Leased Premises or used in connection with the operation and maintenance of the improvements on the Leased Premises.

8.2. Property Taxes. Company shall pay, before delinquency, any and all personal property taxes and real property taxes levied or charged against the real property leased hereby and any of the personal property belonging to Company and situated on the Leased Premises or used in connection with the operation and maintenance of the improvements on the Leased Premises.

9. Utilities.

9.1 Company shall pay, before delinquent, any and all charges for electricity, heat or cooling, telephone, internet and all other utility services furnished to or used in or supplied to the Leased Premises during the Term. PDF shall not be obligated to furnish, provide, or pay for any utilities, facilities or services of any kind. PDF does warrant that all customary utilities including water, sewer, gas, electric and internet are available in the Leased Premises and separately metered to the Leased Premises.

10. Environmental Provisions.

10.1 For the purpose of this Lease, "Hazardous Materials" means any hazardous or toxic substance, material or waste which is or will become regulated by any local government authority, the State of Colorado or the United States government and shall include, but not be limited to (1) substances defined as "hazardous waste", "restricted hazardous waste", "hazardous substance" or "hazardous material" under any applicable federal, state or local law or regulation ("Environmental Regulations") (2) asbestos-containing materials (3) PCB's (4) petroleum or petroleum-based products, and (5) lead. Notwithstanding the foregoing, reasonable quantities of common office and/or cleaning materials shall not be considered Hazardous Materials for purposes of this Lease, provided that Company handles any such materials in accordance with all Environmental Regulations.

10.2 Company will comply with Environmental Regulations that are applicable to the Company and its use of the Leased Premises. No activity shall be undertaken by the Company, its employees, agents, licensees, invitees, contractors or subcontractors, on all or any portion of the Leased Premises which would cause: (i) the presence, use, generation, release, discharge, storage or disposal of any Hazardous Materials in, on, under, about, or from the Leased Premises or any part thereof in violation of any Environmental Regulations; (ii) any portion of the Leased Premises to become a hazardous waste treatment, storage or disposal facility without receiving proper governmental authorization, and in compliance with all Environmental Regulations; or (iii) the discharge of pollutants or effluents into any water source or system or the discharge into the air of any emissions without receiving proper governmental authorization, and in compliance with all Environmental Regulations, including, without limitation, the Federal Water Pollution Control Act, U.S.C. Section 1221 et seq. and the Clean Air Act, 42 U.S.C. Section 7401 et seq.

10.3 Except for (1) the presence of Hazardous Materials in, on or under the Leased Premises as of the commencement date of the Lease, or (2) the introduction to or presence of Hazardous Materials by PDF the Company agrees to defend, indemnify and forever hold harmless the Leased Premises and PDF, and their respective agents, successors, and assigns, as their interest may appear, from all claims, losses, damages, penalties, expenses and costs, including, but not limited to, reasonable attorneys' fees, remedial, and cleanup costs, incurred by reason of the use, storage, generation, release, discharge, maintenance, disposal, or removal of Hazardous Materials in, on, under, about or from the Leased Premises, or any part thereof, by Company, its employees, agents, licensees, authorized guests, contractors and subcontractors.

10.4 The provisions of this Section 10 shall expressly survive the expiration of the Term or other termination of this Lease.

11. Quiet Possession.

Company shall, and may peacefully have, hold and enjoy the Leased Premises, subject to the other terms hereof, provided that Company is not in default beyond any applicable notice and cure period under the Lease.

12. Default and Remedies.

Time is of the essence hereof. If any obligation required to be performed under this Lease is not performed there shall be the following exclusive remedies:

(a) If PDF is in Default: In the event PDF defaults in the performance of its obligations hereunder, Company shall have the right to (i) terminate this Lease by written notice to PDF or (ii) treat this Lease as being in full force and effect and to obtain specific performance, but not any damages. Such violations may be restrained or such obligations enforced by injunction at the instance and request of Company without the showing of any special damages or an inadequate remedy at law.

(b) If Company is in default: In the event of default at any time by Company in the payment of the monthly rent herein provided for, or in the performance of any other of its covenants herein contained, after thirty (30) days' notice in writing to Company and Company's failure within said thirty (30) day period to cure said default, this Lease shall terminate and Company shall have no further rights hereunder and PDF shall have no further obligations hereunder. Upon termination of this Lease, Company shall take reasonable measures to surrender possession of the Leased Premises to PDF in a timely manner. In the event of a default by Company that continues beyond the 30-day notice and cure period provided above, PDF may pursue any remedy whatsoever provided by law or equity.

(c) In the event the Parties hereto become involved in a dispute arising out of this Lease, or the performance or breach thereof, the Court shall award costs, expenses, and attorney fees to the prevailing Party.

13. Waiver.

No waiver of any breach or breaches of any provision, covenant or condition of this Lease shall be construed to be a waiver of any preceding or succeeding breach of such provision, covenant or condition, or of any other provision, covenant or condition.

14. Assignment.

This Lease and the rights granted to PDF hereunder may be assigned to the City, a Colorado municipal corporation, with notice provided to the Company. It shall be necessary for PDF to obtain Company's prior, written consent to any other proposed assignment of this Lease, which consent must not be unreasonably or unduly withheld, conditioned, or delayed.

14.1. Internal Assignments. Notwithstanding anything in this Lease to the contrary, Company has the right upon prior notice to PDF to assign this Lease, without PDF's consent, to a parent, subsidiary, or affiliate of Company, to a Company that has been merged or consolidated with Company, or to a Company acquiring all or substantially all of Company's physical assets,

provided Company (or the resulting entity of any merger or consolidation) remains fully liable hereunder.

14.2. Outside Assignment Requirements. It shall be necessary for Company to obtain PDF's prior, written consent to any other proposed assignment of this Lease. However, PDF's consent must not be unreasonably or unduly withheld, conditioned, or delayed, provided, however, that PDF may withhold consent thereto if in the exercise of its sole judgment it determines that:

14.2.1. Financial Condition. The financial condition of the proposed assignee is not consistent with the extent of the obligations undertaken by the proposed assignment; or

14.2.2. Proposed Use. The proposed use of the Leased Premises is not appropriate for the Minnequa Industrial Park.

15. Representations and Warranties of PDF.

The PDF represents and warrants to Company as follows:

(a) PDF has full power, capacity, and authority to execute and deliver this Lease and all other documents required to be executed and delivered by PDF under this Lease and to perform its obligations hereunder.

(b) This Lease has been duly authorized, executed and delivered by PDF and constitutes the legal, valid and binding obligation of PDF, enforceable against PDF in accordance with its terms.

(c) that PDF has disclosed to Company all easements, reservations, restrictions, covenants, limitations, rights-of-way, and conditions of record that apply to the Leased Premises known to PDF at the time of the execution of this Lease.

16. Representations and Warranties of Company.

Company represents, warrants and covenants as follows:

(a) Company has full power, capacity, and authority to execute and deliver this Lease and all other documents required to be executed and delivered by Company under this Lease and to perform its obligations hereunder.

(b) This Lease has been duly authorized, executed and delivered by Company and constitutes the legal, valid and binding obligation of Company, enforceable against Company in accordance with its terms.

17. Notices.

Any notice required or permitted to be given or delivered under this Lease shall be in writing and shall be deemed delivered upon receipt or refusal of receipt by the following forms of delivery; (a) Personal Delivery to the recipient; (b) Deposit with a nationally recognized overnight-guaranteed delivery service; (c) Deposit in a sealed envelope in the United States Mail, postage prepaid by registered or certified mail, return receipt requested, addressed to the recipient as set forth below; (d) by e-mail transmittal at the e-mail addresses set forth below.

(a) If to PDF, addressed to:

Pueblo Development Foundation
ATTN: Margaret Gaillard
301 N. Main St., Suite 210.
Pueblo, CO 81003
E-Mail: MGaillard@PEDCO.com

(b) If to Company, addressed to:

Fōmcore, LLC
ATTN: Ron Wallish
1770 East Keating Ave
Muskegon, MI 49442
E-Mail: Ron@fomcore.com

or to such other address or person as any Party may from time to time specify in a writing delivered to the other Party in the manner provided in this Section. Any notice shall be deemed delivered on the day on which personal delivery is affected or three (3) days after deposit in the mail in the case of registered or certified mail, and one (1) business day in the case of overnight courier.

With regards to E-Mail communications, each Party is solely responsible to ensure that the other's e-mail address is "white listed" to ensure that messages will not be caught by a spam filter or similar electronic filtering. E-mails are deemed received if they have been sent to the e-mail address provided above, even if not actually received by the other Party because of a spam filter or a technological problem beyond the sender's control. A response by one Party to any e-mail sent to the e-mail address of the other Party is conclusive proof of the functionality of the e-mail address as required under this Lease. Each Party is solely responsible for maintaining a viable e-mail address, for regularly checking its e-mail account(s), and for managing all spam filters applied to the account(s).

18. Modification.

No subsequent modification of any of the terms of this Agreement shall be valid or binding upon the Parties or enforceable unless made in writing and signed by the Parties.

19. Entire Agreement.

All understandings and agreements heretofore had between the Parties hereto considering the subject matter hereof are merged into this Lease which alone (together with the provisions of the Employment Agreement between the Company and the City that are referenced herein and a true and accurate and fully executed copy of which is attached hereto and made a part hereof by reference and labeled **Exhibit A**) fully and completely express the agreement and understanding of the Parties with respect to the Leased Premises. Said agreements are entered into after full investigation, neither Party relying upon any statement or representation, not embodied in this Lease or said other agreements, made by the other Party.

20. Captions.

The captions in this Lease are inserted for convenience of reference only and in no way define, describe, or limit the scope or intent of this Lease or any of the provisions hereof.

21. Validity.

If any provision of this Lease shall be held to be invalid or unenforceable, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Lease.

22. Broker.

Company and PDF represent and warrant to each other that no broker or finder has been engaged by such Party in connection with this transaction. PDF agrees to indemnify, defend and hold Company harmless from and against any and all claims, loss, liability, costs and expenses (including reasonable attorneys' fees), resulting from any claims that may be made against Company by any broker or other person claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of PDF. Company agrees to indemnify, defend and hold PDF harmless from and against any and all claims, loss, liability, costs and expenses (including reasonable attorneys' fees), resulting from any claims that may be made against PDF by any broker or other person claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of Company.

23. Applicable Law.

This Agreement will be construed and enforced in accordance with the laws of the State of Colorado (without giving effect to its choice of law principles).

24. Interpretation.

Whenever the context so requires, the singular number shall include the plural and the plural the singular, and the use of any gender shall include all genders. In addition, 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.

25. Survival of Representations.

The representations, warranties, covenants and agreements of Company and PDF in this Agreement are and shall be construed to be covenants running with the Leased Premises and shall survive the expiration or termination of this Lease.

26. Third Parties.

Company and PDF and their respective successors and permitted assigns are the only Parties to this Lease and are the only parties entitled to enforce this Lease. Nothing contained in this Lease nor any provision hereof is intended to give or shall be construed to give or confer, directly or indirectly, or otherwise, upon any third party any right, remedy or benefit hereunder.

27. Venue and Waiver of Trial by Jury.

PDF AND COMPANY HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION OF THE DISTRICT COURT, PUEBLO COUNTY, STATE OF COLORADO IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS LEASE AND HEREBY IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR

PROCEEDING SHALL BE HEARD AND DETERMINED IN THE DISTRICT COURT OF PUEBLO COUNTY, STATE OF COLORADO. COMPANY AND PDF AGREE THAT THE PROVISIONS OF THIS SECTION 27 SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS LEASE. TO THE FULL EXTENT PERMITTED BY LAW, COMPANY AND PDF HEREBY WAIVE THEIR RIGHTS TO A TRIAL BY JURY.

28. Damage to or Destruction of Leased Premises.

28.1. If, during the Term of this Lease, the Leased Premises shall be damaged to such an extent that the repair of such damage and the restoration of the Leased Premises can be accomplished, with reasonable diligence, within one hundred eighty (180) days after such damage, Company shall promptly repair such damage and cause the Leased Premises to be restored to their condition prior to the event causing the damage. If, during the Term of this Lease, the Leased Premises shall be destroyed or damaged, or partially destroyed or damaged, to such an extent that the repair of such destruction or damage and the restoration of the Leased Premises cannot be accomplished, with reasonable diligence, within one hundred eighty (180) days after such destruction or damage, then Company shall promptly notify PDF in writing of such fact within ten (10) days after the date of such destruction or damage and Company shall thereafter have the right, during a period of thirty (30) days following such notification, to terminate this Lease by written notice to PDF, declaring this Lease to be terminated provided, however, that, as a condition precedent to such termination the proceeds of insurance for the real property and building improvements required to be maintained by Company under Section 7.4.3 (or an amount equal to the insurance proceeds which would have been available but for the failure to maintain such insurance) shall be paid by Company to PDF. Unless such notice of immediate termination shall be given within such 30-day period, this Lease shall continue in full force and effect and Company shall promptly repair such destruction or damage and cause the Leased Premises to be restored to their condition prior to the event causing the destruction or damage. In the event the Leased Premises are destroyed or damaged, or partially destroyed or damaged without Company's fault, the quarterly rent payable by Company shall be excused proportionately according to the floor area of the Leased Premises which is useable by Company. Such rent cancellation shall continue for the period commencing with such damage or destruction and ending when Company completes repair work or reconstruction, provided Company diligently commences and expeditiously completes the repair work or reconstruction. The cancellation of such rent payments shall not release the Company of its obligation to pay the remaining rent owed by the Company under Section 3.1 hereof less any rent abatements earned by the Company under Section 3.2.

28.2. Company shall make the repairs, restoration or rebuilding as expeditiously as possible in accordance with plans and specifications submitted to and approved in writing by PDF and in compliance with all applicable laws, regulations, and codes.

29. Eminent Domain.

If the whole or substantial part of the Leased Premises shall be taken or condemned by any competent authority for any public or quasi-public use or purpose under any statute or by the right of eminent domain, or purchased under threat of such taking, and if the taking of such portion would not allow the Company to conduct its regular business in the ordinary course, then this Lease shall terminate on the date when the condemning authority takes possession of the Leased Premises or the substantial part thereof so taken, and Company shall have no further obligations thereunder. There shall be no apportionment of the award for taking or condemnation, the entire award going to the PDF, provided Company shall have the right to recover any award which may

be made for damages to or condemnation of Company 's movable trade fixtures, equipment, furniture and furnishings or payments for relocation, if any.

30. Holding Over.

If Company shall hold over after the expiration of the term of this Lease, without a signed renewal or new Lease, then Company shall be deemed a tenant from quarter to quarter, subject to all of the terms and conditions set forth in this Lease, except that the quarterly rental due under Section 3.1 hereof shall increase by 25% per quarter due and payable in accordance with the provisions of this Lease. Nothing in this Section shall be construed as permission of the PDF to hold over beyond the expiration of the Term of this Lease.

31. Recording.

Neither Party shall record this Lease or any short form memorandum of this Lease.

32. Liability of PDF.

In no event shall PDF, its officers, agents or employees be liable to Company for damages, including without limitation, direct, compensatory, punitive, indirect, special or consequential damages, resulting from or arising out of or related to this Lease or the performance or breach thereof by PDF or the failure or delay of PDF in the performance of any covenant or provision under this Lease on its part to be performed. In consideration of PDF entering into this Lease, Company hereby waives and discharges PDF, its officers, agents and employees from all claims for any and all such damages. No breach, default, delay, or failure of PDF under this Lease shall be or be construed to be a waiver, discharge or release of Company's obligation to pay rent under Section 3.1 hereof less any rent abatements earned by the Company under Section 3.2 hereof. In the event of a breach of this Agreement by PDF, Company's sole and exclusive remedy shall be to terminate this Lease as permitted herein, or to bring an equitable action for specific performance in the District Court of Pueblo County, Colorado. Such violations may be restrained or such obligations enforced by injunction at the instance and request of Company without the showing of any special damages or an inadequate remedy at law.

33. Counterparts.

This Lease may be executed in any number of 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.

[Signatures to appear on the following page.]

PUEBLO DEVELOPMENT FOUNDATION
A Colorado Nonprofit Corporation

By: _____

Name: _____

Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this ____ day of July, 2023 by _____ as _____ of the Pueblo Development Foundation, a Colorado nonprofit corporation.

Witness my hand and official seal.

My commission expires: _____.

[SEAL]

Notary Public

COMPANY : Fomcore, LLC, A Michigan Limited Liability Company

By: _____

Name: _____

Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of July, 2023 by _____ as _____ of Fomcore, LLC, a Michigan Limited Liability Company.

Witness my hand and official seal.

My commission expires: _____.

[SEAL]

Notary Public

DEED OF TRUST
(200 GREENHORN DR., PUEBLO, CO 81004)

THIS INDENTURE, is made this 14th day of August, 2023 between the Pueblo Development Foundation, a Colorado nonprofit corporation, whose address is 301 N. Main St., Suite 200., Pueblo, CO 81003 (hereinafter referred to as “Grantor”), and the Public Trustee of the County of Pueblo, State of Colorado (hereinafter referred to as “Public Trustee”) for the benefit of the City of Pueblo, a Colorado municipal corporation whose address is 1 City Hall Place, Pueblo, CO 81003 (hereinafter referred to as “City of Pueblo” or “beneficiary”);

WITNESSETH, THAT, WHEREAS, Grantor and the City of Pueblo are parties to that certain Real Property Conveyance Agreement dated August 14th, 2023, a true, complete and correct copy of which is attached hereto as Exhibit A (the “Agreement”), whereby Grantor agreed to comply with certain real property management and other requirements enumerated in the Agreement in consideration of the transfer to Grantor by the City of Pueblo of the real property encumbered hereby; and

WHEREAS, the Grantor is desirous of securing all its obligations under the Agreement, including but not limited to payment of rent accruing from said real property to the City of Pueblo (the “Obligations”).

NOW THEREFORE, the Grantor, in consideration of the premises and for the purpose aforesaid, does hereby grant, bargain, sell and convey unto the said Public Trustee in trust until the full payment and performance of the Obligations (“Full Performance”), the following described property, situate in the County of Pueblo, State of Colorado, to wit:

Lot 1 Minnequa Industrial Park, Fifth Filing,
County of Pueblo, State of Colorado

more commonly known by street and number as: 200 GREENHORN DR., PUEBLO, CO
81004

also known as Pueblo County Assessor Parcel No. 1523002009

TO HAVE AND TO HOLD the same, together with all and singular the privileges and appurtenances thereunto belonging, in trust nevertheless, that: a) in case of default by Grantor of the Obligations under the Agreement, or b) in case default shall be made or violation or breach of any of the terms conditions, covenants or agreements herein contained, the beneficiary hereunder or the legal holder of the Agreement secured hereby may declare a violation of any of the covenants herein contained and may elect to advertise said property for sale, and demand such sale by filing a notice of election and demand for sale with the Public Trustee. Upon receipt of such notice of election and demand for sale, the Public Trustee shall cause such notice to be recorded in the recorder’s office of the county in which said property is situated.

The Public Trustee shall then give public notice of the time and place of sale by advertisement to be published for four weeks (once each week for five successive weeks) in some newspaper of general circulation at that time published in the county or counties in

which said property is located. A copy of such notice shall be mailed to all persons entitled to receive notice as provided by law. It shall and may then be lawful for the Public Trustee to sell said property for the highest and best price the property will bring in cash and to dispose of the said property (en masse or in separate parcels, as the said Public Trustee may think best), together with all the right, title and interest of the Grantor therein, at public auction at any place as may be specified by statute and designated in the notice of sale.

The Public Trustee shall make and give to the purchaser of such property at such sale, a certificate of purchase as required by law. Unless the property is redeemed, the public trustee shall execute and record a confirmation deed to the holder of the certificate of purchase after the date of sale and expiration of all redemption periods and the receipt of all statutory fees and costs.

The Public Trustee shall, out of the proceeds of such sale and after first paying and retaining all fees, charges and costs of making said sale, pay to the beneficiary hereunder or to any assignee of the beneficiary's rights under the Agreement any amounts due pursuant to the Obligations under the Agreement, and all moneys advanced by such beneficiary for insurance, taxes and assessments, with interest thereon at eight per cent per annum, rendering the overplus, if any, unto those persons entitled thereto as a matter of law. Said sale as evidenced by the confirmation deed executed and recorded by the Public Trustee shall operate as a perpetual bar, both in law and equity, against the Grantor and all other persons claiming the said property, or any part thereof, by, from, through or under the Grantor. The City of Pueblo or its assignee may purchase said property or any part thereof; and it shall not be obligatory upon the purchaser at any such sale to see to the application of the purchase money.

The Grantor covenants with and warrants to the Public Trustee, that at the time of the ensembling of and delivery of these presents the Grantor is well seized of the said lands, tenements and property in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in the manner and form as aforesaid; hereby fully and absolutely waiving and releasing all rights and claims the Grantor may have in or to said lands, tenements, and property as a Homestead Exemption, or other exemption, under and by virtue of any act of the General Assembly of the State of Colorado or of the United States Congress, now existing or which may hereafter be passed in relation thereto, and that the same are free and clear of all liens and encumbrances whatever as of the date hereof except easements, conditions, restrictions, covenants and reservations of record.

The Grantor further warrants to the Public Trustee the quiet and peaceable possession of said property against all persons who may lawfully claim the whole or any part thereof, and that the Grantor shall and will forever defend the title to said property against such person or persons.

Until Full Performance, the Grantor shall timely pay or cause all taxes and assessments levied on the property to be paid and will keep all improvements that may be on said lands insured against any casualty loss, including extended coverage, in a company or companies, meeting the net worth requirements of the beneficiary hereof in an amount which will yield to the holder of the Agreement, after reduction by co-insurance provisions of the policy, if any, not less than the then total fair market value of the real property encumbered hereby.

Each policy shall contain a loss payable clause naming the beneficiary as mortgagee and shall further provide that the insurance may not be canceled upon less than ten days written notice to the beneficiary. Should the Grantor fail to insure and deliver a certificate evidencing the required coverage under the policies or to pay taxes or assessments as the same fall due, the beneficiary may make any such payments or procure any such insurance, and all monies so paid with interest thereon at the rate of eight per cent per annum shall be added to and become a part of the Agreement secured by this Deed of Trust and may be paid out of the proceeds of the sale of the property if not paid by the Grantor. In addition, and at its option, the beneficiary may declare the Agreement secured hereby and this Deed of Trust to be in default for failure to procure insurance or make any of the payments required by this paragraph.

If all or any part of the property or an interest therein is sold or transferred by the Grantor without beneficiary's prior written consent, including the creation of a lien or encumbrance subordinate to this Deed of Trust, beneficiary may, at beneficiary's option, declare the Agreement secured by this Deed of Trust to be immediately in default.

IN CASE OF ANY DEFAULT whereby the right of foreclosure occurs hereunder, the holder of said certificate of purchase shall at once become entitled to the possession, use and enjoyment of the property aforesaid, and to the rents, issues and profits thereof, from the accruing of such right and during the pendency of foreclosure proceedings and the period of redemption, if any. Such possession shall at once be delivered to the holder of said certificate of purchase on request. Upon refusal, delivery of such possession may be enforced by the holder of said certificate of purchase by any appropriate civil suit or proceeding. The holder of said certificate of purchase shall be entitled to a Receiver for said property, and of the rents, issues and profits thereof, after such default, including the time covered by foreclosure proceedings and the period of redemption, if any, and shall be entitled thereto as a matter of right without regard to the solvency or insolvency of the Grantor or of the then owner of said property and without regard to the value thereof. Such Receiver may be appointed by any court of competent jurisdiction upon ex parte application and without notice -- notice being hereby expressly waived -- and all rents, issues and profits, income and revenue therefrom shall be applied by such Receiver according to the law and the orders and directions of the court.

IN THE CASE OF ANY DEFAULT in any of said Obligations, according to the tenor and effect of said Agreement or any part thereof, or of a breach or violation of any of the covenants or agreements herein by the Grantor, the whole of said Obligations hereby secured and the interest thereon to the time of the sale may at once, at the option of the legal holder thereof, become due and payable, and the said property be sold in the manner and with the same effect as if said indebtedness had matured. If foreclosure be made by the Public Trustee, attorney's fees in a reasonable amount for services in the supervision of said foreclosure proceedings shall be allowed by the Public Trustee as a part of the cost of foreclosure; and if foreclosure be made through the courts, a reasonable attorney's fee shall be taxed by the court as a part of the cost of such foreclosure proceedings.

IT IS FURTHER UNDERSTOOD AND AGREED that upon Full Performance, the City of Pueblo shall execute a release of this Deed of Trust, such release document to be prepared by Grantor with Grantor paying the expense thereof; all of the covenants and

agreements herein contained shall extend to and be binding upon the heirs, personal representatives, successors and assigns of the respective parties hereto; and that the singular number shall include the plural and the plural the singular.

Executed on the date first above written.

GRANTOR:

PUEBLO DEVELOPMENT FOUNDATION

By _____
Name: Robert L. Root
Title: President

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me on this _____ day of _____, 2023, by the Pueblo Development Foundation, by Robert L. Root, its President.

Witness my official hand and seal.

My commission expires: _____.

**SPECIAL WARRANTY DEED
(200 GREENHORN DR., PUEBLO, CO 81004)**

THIS DEED, made this 14th day of August, 2023 by and between CITY OF PUEBLO, a Colorado municipal corporation, Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) in hand paid by the PUEBLO DEVELOPMENT FOUNDATION, a Colorado nonprofit corporation, a Colorado municipal corporation, Grantee; Grantor hereby sells and conveys to Grantee, whose address is 301 N. Main St., #200, Pueblo, CO 81003, the following real property situate in the County of Pueblo, State of Colorado, to-wit:

Lot 1, Minnequa Industrial Park, Fifth Filing, County of Pueblo, State of Colorado

more commonly known by street and number as: 200 Greenhorn Dr., Pueblo, CO 81004, also known as Pueblo County Assessor Parcel No. 1523002009

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in any otherwise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all of the estate, right, title, interest, claim, and demand whatsoever of the Grantor, either in law or in equity, of, in, and to the above bargained premises with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the Grantee, its successors and assigns forever. Grantor for itself and its successors and/or assigns do covenant and agree that it shall and will warrant and forever defend the above bargained premises in the quiet and peaceful possession of the Grantee, its successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under the Grantor. The singular number shall include the plural and the plural the singular and the use of any gender shall be applicable to all genders. Said warranty is subject to rights-of-way, easements, covenants, plats, agreements and other restrictions of record as of the date of this Deed and any other exceptions or exclusions or rights of third parties not shown by the public records of which Grantee has actual knowledge, and subject to the inclusions of the property within any special taxing district.

IN WITNESS WHEREOF, the Grantor has executed this Deed effective the date set forth above.

**CITY OF PUEBLO, COLORADO
A COLORADO MUNICIPAL CORPORATION**

Nicholas A. Gradisar
Mayor of the City of Pueblo, Colorado

STATE OF COLORADO)
) ss
COUNTY OF PUEBLO)

Subscribed and sworn to before me this ____ day of August, 2023 by Nicholas A. Gradisar, in his capacity as Mayor of the City of Pueblo, a Colorado Municipal Corporation.

Witness my hand and official seal.

My commission expires: _____

Notary Public



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 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 (1) APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND FOMCORE, A MICHIGAN LIMITED LIABILITY COMPANY, RELATING TO A JOB CREATING CAPITAL IMPROVEMENT PROJECT AND (2) APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A REAL PROPERTY CONVEYANCE AGREEMENT AND RELATED QUITCLAIM DEED BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE PUEBLO DEVELOPMENT FOUNDATION, A COLORADO NONPROFIT CORPORATION, RELATING TO A PARCEL OF IMPROVED LAND LOCATED IN THE PUEBLO MINNEQUA INDUSTRIAL PARK AND (3) TRANSFERRING SIX MILLION FIVE HUNDRED THOUSAND DOLLARS (\$6,500,000) FROM THE 1992-2026 SALES AND USE TAX CAPITAL IMPROVEMENT PROJECTS FUND FOR THE PURPOSE OF SAID CONVEYANCE AGREEMENT AND (4) TRANSFERRING ONE MILLION SEVEN HUNDRED AND FORTY THOUSAND DOLLARS (\$1,740,000) FROM THE 1992-2026 SALES AND USE TAX CAPITAL IMPROVEMENT PROJECTS FUND FOR THE PURPOSE OF THE CITY OF PUEBLO'S COMPLIANCE WITH SAID EMPLOYMENT AGREEMENT

SUMMARY:

Attached is an Ordinance approving and authorizing the Mayor to sign the following agreements:

- Employment Agreement between the City of Pueblo and Fomcore~~ep~~ LLC, a Michigan limited liability company ("Fomcorp");
- Real Property Conveyance Agreement between the City of Pueblo and the Pueblo Development Foundation ("PDF") for the transfer of 200 Greenhorn

- Dr, Pueblo, CO 81003 to PDF to be leased by PDF to Fomcorp;
- Special Warranty Deed transferring 200 Greenhorn Dr., Pueblo, CO 81003 to PDF

PREVIOUS COUNCIL ACTION:

Ordinance No. 9712 (June 8, 2020) approved an agreement wherein the facility located at 200 Greenhorn Dr., Pueblo, CO 81008 was previously constructed by PDF as a shell building and transferred to the City of Pueblo following construction.

BACKGROUND:

Fomcorp is a Michigan company specializing in the manufacturing of foam furniture for educational and healthcare facilities. Fomcorp has a need to open a 2nd manufacturing facility in the United States regionally located to serve the western portion of the United States. Fomcorp plans to lease the facility located at 200 Greenhorn Dr., Pueblo, CO 81004. Fomcorp plans to employee a minimum of 87 full time employees for not less than thirty-five (35) hours per week with an average annual salary for full-time employees of not less than \$41,000 plus benefits. Fomcorp will receive a rent abatement in an amount not to exceed One Million Seven Hundred Forty Thousand Dollars (\$1,740,000).

The facility located at 200 Greenhorn Dr., Pueblo, CO 81008 was previously constructed by PDF as a shell building. The facility was transferred to the City of Pueblo following construction. In order to lease the facility, certain improvements need to be completed. It is estimated that an addition \$6.5 Million dollars is necessary to complete the improvements. This is in addition to the previously allocated dollars for the construction of the building.

With respect to such construction and related Real Property Conveyance Agreement with Pueblo Development Foundation (“PDF”), PDF was formed in 1964 as a Colorado nonprofit corporation to promote economic development within the City of Pueblo and the areas surrounding the City. For more than fifty years, PDF has helped start up businesses and assisted existing businesses in relocating to Pueblo County and thereby has acquired expertise in economic development.

Section 14-4-85.5 of the Pueblo Municipal Code (“Criteria Ordinance”) provides that the City Council may authorize the expenditure of monies from the 1992-2026 Sales and Use Tax Capital Improvement Projects Fund (“Half-Cent Tax Fund”) for the acquisition of land and construction of so-called shell buildings or the acquisition, remodeling and renovation of existing buildings for the purpose of making such buildings available for applicants or potential applicants who meet the standards and criteria of this Chapter.

FINANCIAL IMPLICATIONS:

With respect to the Real Property Conveyance Agreement, the City has agreed to transfer up to \$6.5 million dollars from the Half-Cent Tax Fund to PDF for the construction improvements needed for the purpose of making the building available and in order to lease to Fomcorp

based upon plans and specifications already prepared by Nakai & Associates for the work contemplated by this Agreement.

With respect to the Employment Agreement, City funds will be made available out of the 1992-2026 Sales and Use Tax Capital Improvement Projects Fund for rent abatements to Fomcorp as follows:

Dates	Location	Maximum Abatement of Rents
March 1, 2024 to June 30, 2024	200 Greenhorn Dr.	No rent
July 1, 2024 to March 31, 2031	200 Greenhorn Dr.	\$ 1,740,000
Total		\$ 1,740,000

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, Fomcorp will not locate its new facility to Pueblo, CO.

RECOMMENDATION:

The Pueblo Economic Development Corporation recommends approval of this Ordinance.

ATTACHMENTS:

1. Conveyance Agreement between City and PDF
2. Lease between Fomcorp and PDF
3. PDF Deed of Trust -200 Greenhorn Dr
4. Special Warranty Deed - City to PDF 200 Greenhorn

ORDINANCE NO.

AN ORDINANCE (1) APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND FOMCORE, A MICHIGAN LIMITED LIABILITY COMPANY, RELATING TO A JOB CREATING CAPITAL IMPROVEMENT PROJECT AND (2) APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A REAL PROPERTY CONVEYANCE AGREEMENT AND RELATED QUITCLAIM DEED BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE PUEBLO DEVELOPMENT FOUNDATION, A COLORADO NONPROFIT CORPORATION, RELATING TO A PARCEL OF IMPROVED LAND LOCATED IN THE PUEBLO MINNEQUA INDUSTRIAL PARK AND (3) TRANSFERRING SIX MILLION FIVE HUNDRED THOUSAND DOLLARS (\$6,500,000) FROM THE 1992-2026 SALES AND USE TAX CAPITAL IMPROVEMENT PROJECTS FUND FOR THE PURPOSE OF SAID CONVEYANCE AGREEMENT AND (4) TRANSFERRING ONE MILLION SEVEN HUNDRED AND FORTY THOUSAND DOLLARS (\$1,740,000) FROM THE 1992-2026 SALES AND USE TAX CAPITAL IMPROVEMENT PROJECTS FUND FOR THE PURPOSE OF THE CITY OF PUEBLO'S COMPLIANCE WITH SAID EMPLOYMENT AGREEMENT

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

SECTION 1.

The City Council finds and determines that (1) the expenditure of up \$6,500,000 improvements of the building located at 200 ~~Minnequa~~ Greenhorn Dr., Pueblo, for the job creating capital improvement project by the Pueblo Development Foundation, a Colorado nonprofit corporation ("PDF") described in the attached Real Property Conveyance Agreement, meets and complies with the criteria and standards established by Section 14-4-85.5 of the Pueblo Municipal Code and will create employment opportunities justifying the expenditure of public funds; and (2) the expenditure of \$1,740,000 for a job creating capital improvement project with Fomcore~~ep~~ LLC a Michigan limited liability company ("Fomcorp") described in the attached Employment Agreement is for a public purpose and in furtherance of a municipal function and will create employment opportunities justifying the expenditure of public funds. The City Council further finds the incentives granted to the Formcorp hereby meet the standards established by Section 14-4-85 of the Pueblo Municipal Code.

SECTION 2.

The following agreements, all dated August 14, 2023, copies of which are attached hereto and are incorporated herein by this reference, having been approved as to form by the City Attorney, are hereby approved:

- Employment Agreement between the City of Pueblo and Fomrcorp;
- Real Property Conveyance Agreement between the City of Pueblo and the Pueblo Development Foundation ("PDF") and with respect to the transfer of 200 ~~Minnequa~~ Greenhorn Dr, Pueblo, CO 81003 to PDF to be leased by PDF to Fomcorp;

The Mayor is authorized to execute and deliver said agreements in the name of the City and the

City Clerk is authorized to fix the seal of the City thereto and attest same. The Mayor is further authorized to execute and deliver a Special Warranty Deed and related documents at closing, transferring 200 ~~Minnequa~~ Greenhorn Dr, Pueblo, CO 81003 to PDF.

SECTION 3.

Funds in the aggregate amount of \$6,500,000 are hereby authorized to be transferred, expended and made available out of the 1992-2026 Sales and Use Tax Capital Improvement Projects Fund for the sole purpose of the job creating capital improvement project authorized herein and in the manner described in the attached Real Property Conveyance Agreement. The funds hereby authorized to be transferred and expended shall be released, disbursed and paid by the City's Director of Finance as specified in the attached Real Property Conveyance Agreement.

SECTION 4.

Funds in the aggregate amount of \$1,740,000 are hereby authorized to be transferred, expended and made available out of the 1992-2026 Sales and Use Tax Capital Improvement Projects Fund for the sole purpose of the job creating capital improvement project authorized herein and in the manner described in the attached Employment Agreement. The funds hereby authorized to be transferred and expended shall be released, disbursed and paid by the City's Director of Finance as specified in the attached Employment Agreement.

SECTION 5.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the attached agreements which are necessary or appropriate 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 _____.

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

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement") is entered into as of August 14, 2023 by and between the City of Pueblo, a Colorado municipal corporation ("City") and Fomcore, LLC, a Michigan limited liability company (hereinafter called the "Company"). Company and City are sometimes referred to herein as a "Party" and collectively, as the "Parties."

WHEREAS, the Company has expressed a willingness to establish a manufacturing facility at the Pueblo Minnequa Industrial Park, and in furtherance thereof has, through the Pueblo Economic Development Corporation ("PEDCO"), made application for economic development incentives from the City; and

WHEREAS, PEDCO has recommended to the City Council that City approve such application, and

WHEREAS, the City Council, based on PEDCO's recommendation, has approved such application, subject to and upon the terms and conditions of this Agreement; and

WHEREAS, the City has determined that Company's Business will create primary jobs and will not materially and substantially compete with any currently existing activity or business within the City; and

WHEREAS, in connection with its application, the Company has committed to provide the employment described in Section 3 of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Company agree as follows:

1. Definitions. The following terms as used in this Agreement shall have the following meaning unless the context clearly indicates otherwise:

"Employment Commitment Date" means July 1, 2024

"Facilities" means the following facility to be leased by PDF to the Company, located at the Pueblo Minnequa Industrial Park, wherein Company will conduct its business operations:

200 Greenhorn Dr., Pueblo, CO 81004

"Full-Time Employee" means a person, based out of the Facilities, who performs work for the Company for not less than thirty-five (35) hours per week. The Company's average annual salary for Full-Time Employees shall be no less than \$41,000 without accounting for benefits.

"Lease Agreement" means that lease agreement (200 Greenhorn, Pueblo, Co 81004) of even date herewith by and between Company and Pueblo Development Foundation, a Colorado

nonprofit corporation ("PDF). A copy of the Lease Agreement is attached hereto, incorporated herein and labelled Exhibit 1.

"PDF" means the Pueblo Development Foundation, a Colorado nonprofit corporation.

"Property" means the following parcel of land:

LOT 1 MINNEQUA INDUSTRIAL PARK, FIFTH FILING FORMERLY #15-230-02-008

"Quarter" means three consecutive calendar months commencing January 1, April 1, July 1 and October 1 of each calendar year.

"Quarterly Employees" means the sum of the aggregate number of Full-Time Employees on each business day of a Quarter, divided by the number of business days in such Quarter.

2. Abatement of Rent. If Company is not in default hereunder, City will, after the Effective Date and pursuant to the Lease Agreement make available, for the benefit of Company, funds for the abatement of rent pursuant to the Lease Agreement. Such funds shall not exceed the amount of One Million Seven Hundred and Forty Thousand Dollars (\$1,740,000.00) ("City Funds"). The Parties further agree:

(a) City Funds will be budgeted and appropriated by City for the benefit of Company solely for rent abatements as follows:

Dates	Location	Maximum Abatement of Rents
July 1, 2024 through March 31, 2032	200 Greenhorn Dr.	\$ 1,740,000

(b) Company shall file in the office of the City Clerk copies of the following: (i) Company's certificate or other evidence of authority to transact business in the State of Colorado issued by the Colorado Secretary of State, and (ii) certified copies of the resolutions of the governing board of Company approving (A) this Agreement; (B) the Lease Agreement and authorizing its officers to execute and deliver said documents in the name of Company, and (iii) certified copies of (A) this Agreement; (B) the Lease Agreement executed by authorized officers of Company. The date of the last to occur of the filings required under (i), (ii) and (iii) of this Section 2 shall be referred to herein as "Closing." If Closing does not occur on or before March 1, 2024 or such later date as Company and City shall mutually agree, City and Company, at their sole option, may terminate this Agreement and City and Company shall thereafter be released and discharged from all obligations hereunder.

(c) Provided Company is not in default in this Agreement or the Lease Agreement and provided the Lease Agreement has not otherwise been terminated, the Parties agree that the Leased Premises (as defined under the Lease Agreement) will not be sold or transferred in any

way that would interfere with Company's operation of its business as allowed per the Lease Agreement.

3. Employment Commitment. Company acknowledges and agrees that the primary purpose of City in entering into this Agreement is the creation of jobs. Therefore, Company represents, covenants, and agrees that it will continuously conduct its business operations and employ Full-Time Employees based at the Facilities as follows. On and after the Employment Commitment Date and continuing for as long as the Lease Agreement is in effect, Company shall make commercially reasonable efforts in good faith to employ as many Full-Time Employees as reasonably justified by its business operations, with the goal of employing Eighty-Seven (87) Full-Time Employees at the Facilities (the "Employment Commitment"). Company's sole liability for failure to meet the Employment Commitment shall be with respect to rent abatement as set forth in the Lease Agreement.

4. Representations and Warranties of City. The City represents and warrants to Company as follows:

(a) City has full power, capacity and authority to execute and deliver this Agreement and all other documents required to be executed and delivered by City under this Agreement and to perform its obligations hereunder.

(b) This Agreement has been duly authorized, executed and delivered by City and constitutes the legal, valid and binding obligation of City, enforceable against City in accordance with its terms.

5. Representations and Warranties of Company. Company represents, warrants and covenants as follows:

(a) Company has full power, capacity and authority to execute and deliver this Agreement and all other documents required to be executed and delivered by Company under this Agreement and to perform its obligations hereunder.

(b) This Agreement has been duly authorized, executed and delivered by Company and constitutes a legal, valid and binding obligation of Company, enforceable against Company in accordance with its terms.

6. Notices. Any notice required or permitted to be given or delivered under this Agreement shall be in writing and shall be given by personal delivery, or by the United States Postal Service, by registered or certified mail, postage prepaid, or reputable national overnight courier service:

(a) If to City, addressed to:

Mayor
City of Pueblo
1 City Hall Place, 2nd Floor
Pueblo, CO 81003

with a copy to: City Attorney
1 City Hall Place, 3rd Floor
Pueblo, CO 81003

(b) If to Company, addressed to:

Fomcore LLC
Attn: Ron Wallish
1770 E. Keating Ave.
Muskegon, MI 49442

or to such other address or person as any Party may from time to time specify in a writing delivered to the other Party in the manner provided in this Section. Any notice shall be deemed delivered on the day on which personal delivery is effected or three (3) days after deposit in the mail in the case of registered or certified mail and after one (1) business day in the case of overnight courier.

7. Assignment. This Agreement and the rights granted to Company hereunder may be assigned as follows:

7.1. Internal Assignments. Notwithstanding anything in this Agreement to the contrary, Company has the right to assign this Agreement, without City's consent, to a parent, subsidiary, or affiliate of Company, to a company that has been merged or consolidated with Company, or to a company acquiring all or substantially all of Company's physical assets, provided Company (or the resulting entity of any merger or consolidation) remains fully liable hereunder.

7.2. Outside Assignment Requirements. It shall be necessary for Company to obtain City's prior, written consent to any other proposed assignment of this Agreement. However, City's consent must not be unreasonably or unduly withheld, conditioned, or delayed, provided, however, that City may withhold consent thereto if in the exercise of its sole judgment it determines that:

7.2.1. Financial Condition. The financial condition of the proposed assignee is not consistent with the extent of the obligations undertaken by the proposed assignment; or

7.2.2. Proposed Use. The proposed use of the Property is not appropriate for the Minnequa Industrial Park.

Except as so restricted, this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

8. Modification. No subsequent modification of any of the terms of this Agreement shall be valid or binding upon the Parties or enforceable unless made in writing and signed by the Parties.

9. Entire Agreement. All understandings and agreements heretofore had between the Parties hereto considering the subject matter hereof are merged into this Agreement which alone fully and completely expresses the agreement and understanding of the Parties with respect to the

Facilities and Property. Said agreements are entered into after full investigation, neither Party relying upon any statement or representation, not embodied in this Agreement, made by the other Party.

10. Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

11. Validity. If any provision of this Agreement shall be held to be invalid or unenforceable, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Agreement.

12. Applicable Law. This Agreement will be construed and enforced in accordance with the laws of the State of Colorado (without giving effect to its choice of law principles).

13. Interpretation. Whenever the context so requires, the singular number shall include the plural and the plural the singular and the use of any gender shall include all genders. In addition, 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.

14. Survival of Representations. The provisions of this Agreement shall survive the expiration of the Company's Employment Commitment and shall continue in effect for a period of six (6) years following the expiration of the Company's Employment Commitment and for such further time as it may take to completely and finally negotiate, settle, or litigate any claim or suit concerning the same.

15. Third Parties. Company and City and their respective successors and permitted assigns are the only Parties to this Agreement and are the only parties entitled to enforce this Agreement. Nothing contained in this Agreement nor any provision hereof is intended to give or shall be construed to give or confer, directly or indirectly, or otherwise, upon any third party any right, remedy or benefit hereunder.

16. Venue and Waiver of Trial by Jury. CITY AND COMPANY HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION OF THE DISTRICT COURT, PUEBLO COUNTY, STATE OF COLORADO IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT AND HEREBY IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING SHALL BE HEARD AND DETERMINED IN THE DISTRICT COURT OF PUEBLO COUNTY, STATE OF COLORADO. COMPANY AND CITY AGREE THAT THE PROVISIONS OF THIS SECTION 16 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT. TO THE FULL EXTENT PERMITTED BY LAW, COMPANY AND CITY WAIVE THEIR RIGHTS TO A TRIAL BY JURY.

17. 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.

18. Commissions. Company represents and warrants that no person, entity, or organization has been employed or retained or will receive or be paid, directly or indirectly, any commission, percentage, contingent fee or any other remuneration payment or receipt of which is contingent upon approval of this Agreement by City. For breach or violation of this warranty, City shall have the right to terminate this Agreement, or recover the full amount of such commission, percentage, contingent fee or other remuneration, or to seek such other remedies legally available to City, which remedies shall be cumulative.

19. Liability of City. In no event shall City, its officers, agents or employees be liable to Company for damages, including without limitation, direct, compensatory, punitive, indirect, special or consequential damages, resulting from or arising out of or related to this Agreement or the performance or breach thereof by City or the failure or delay of City in the performance of any covenant or provision under this Agreement on its part to be performed. In consideration of City entering into this Agreement, Company hereby waives and discharges City, its officers, agents and employees from all claims for any and all such damages. No breach, default, delay or failure of City under this Agreement shall be or be construed to be a waiver, discharge or release of Company's obligations under this Agreement. In the event of a breach of this Agreement by the City, Company's sole and exclusive remedy shall be to bring an equitable action for specific performance in the District Court of Pueblo County, Colorado. Such violations may be restrained or such obligations enforced by injunction at the instance and request of Company without the showing of any special damages or an inadequate remedy at law.

20. Counterparts. This Agreement may be executed in any number of 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.

[Signatures to appear on the following page.]

Executed at Pueblo, Colorado, the day and year first above written.

CITY:

CITY OF PUEBLO, CO
A MUNICIPAL CORPORATION

By: _____
Mayor

ATTESTED BY: _____
City Clerk

COMPANY :

By _____

Name: _____

Title: _____

STATE OF _____)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023 by _____ as _____ of Fomcore, LLC, a Michigan limited liability company.

Witness my hand and official seal.

My commission expires: _____.

[S E A L]

Notary Public

Exhibit 1--LEASE AGREEMENT
(200 GREENHORN, PUEBLO, CO 81004)

THIS LEASE AGREEMENT ("Lease") is made the _14 th day of August, 2023, between the Pueblo Development Foundation, a Colorado nonprofit corporation (hereinafter called "PDF"), and Fomcore, LLC (hereinafter called the "Company"). Company and PDF are sometimes referred to herein as a "Party" and collectively, as the "Parties."

1. Leased Premises Defined.

Subject to satisfaction of the terms and conditions contained in this Lease, PDF agrees to lease to the Company and the Company agrees to lease from PDF, the following real property situated in the County of Pueblo, State of Colorado, to-wit:

LOT 1 MINNEQUA INDUSTRIAL PARK, FIFTH FILING FORMERLY #15-230-02-008

more commonly known by street and number as: 200 Greenhorn Dr., Pueblo, CO 81004 ("Leased Premises"). The Leased Premises shall be leased subject to and subordinate to all easements, reservations, restrictions, covenants, limitations, rights-of-way and conditions of record and the zoning and subdivision regulations and resolutions of the City of Pueblo ("City").

2. Term and Extended Term.

2.1. The Term of this Lease shall begin on March 1, 2024 and shall end on March 31, 2032. The Company may be permitted limited early access to the Leased Premises assuming it does not conflict with the final buildout thereof.

2.2. Provided Company is not in default of its obligations under this Lease beyond any applicable notice and cure periods, Company may extend the Term as follows: Company may exercise one (1) ten (10) year renewal option by providing written notice to PDF by March 1, 2032 ("Renewal Term"). Rent for the Renewal Term shall be calculated and determined at an annual rate per square foot of \$6.50. The Parties acknowledge and agree that there is no monetary abatement of the rent due during the Renewal Term.

3. Rent.

3.1 Company, subject to Sections 3.2 and 3.4 below, agrees to pay rent at the completion of each three-calendar month period commencing on January 1, April 1, July 1 and October 1 of each calendar year ("Quarter") to PDF during the initial Term of this Lease as follows:

Dates	Annual rate per square foot	Rent amount per Quarter
-------	-----------------------------	-------------------------

March 1, 2024 to June 30, 2024	Free Rent	Free Rent
July 1, 2024 through March 31, 2032	\$5.50	\$ 61,875
Lease total		\$ 1,918,125

3.2 Each Quarter ("Quarterly") during the Term of this Lease, Company shall be entitled to receive monetary abatements of the payment of rent, but in no event in excess of the Total Lease Abatement amount set forth below, based upon the number of Full-Time Employees (as defined in the Employment Agreement between the Company and the City of even date herewith ("Employment Agreement")) employed by the Company on the Leased Premises, as follows:

- Quarterly Abatement Per Employee: \$711.20

Total Lease Abatement (if 87 employees): \$1,740,000.00

For example, if for the third Quarter of the second year of this Lease, the number of Quarterly Employees (as defined in the Employment Agreement) is 60, the gross amount of rent due and payable by Company to PDF remains at \$61,875. The monetary abatement will reduce the net amount of rent payable by Company (in excess of the monetary abatement) to PDF to be \$61,875-\$42,672 (60 x \$711.20) = \$19,203. The Parties agree that during the Term of this Lease, Company shall be entitled to receive a rent abatement up to a maximum of 87 employees per Quarter for these Leased Premises. Under no circumstances will Company be entitled to receive monetary abatements of rent in excess of \$1,740,000 nor shall it be entitled to receive any additional financial compensation from PDF or the City should Company's workforce exceed 87 employees.

3.3 Notwithstanding any other provision of this Lease, Company agrees to pay PDF a Quarterly management fee in the amount of \$3,094. Company's obligation to pay this Quarterly management fee is absolute and unconditional and shall not be offset, abated, reduced or withheld for any cause whatsoever.

3.4 Other Rent Terms

- Within fifteen (15) days after the end of each Quarter of this Lease, Company will submit to the City's Director of Finance or designee, Company's statements showing the Quarterly Employees and their aggregate salaries paid in the preceding Quarter and the basis upon which Quarterly Employees and Company's Quarterly rent payment were computed, certified by an officer of the Company to be true and correct. The Quarterly Employee report is based on the definition of

Full-Time Employee as defined in the Company's Employment Agreement with the City of Pueblo. For purposes of verifying such employment, upon reasonable notice the City and PDF shall have access to Company's records relating to Company's employees employed during each such Quarter. Except in the event of any action filed by PDF to enforce this Lease, PDF shall treat such information as confidential and shall not disclose (except pursuant to a subpoena or court order) such information to any third party other than those employees of PDF or the City who have a need to know such information; provided, however, that if an enforcement action is filed, PDF shall continue to keep such information confidential other than as necessary to pursue such action and shall cooperate with Company efforts to obtain a protective order covering such information.. During the Term of this Lease, Company shall remit payment of the rent for the preceding Quarter when Company files its Quarterly statements relating to Company's employees employed during each such preceding Quarter.

- b. On or before September 30 of each year during the Term, Company, PDF and the City shall review the total average number of employees employed by Company through the preceding four (4) Quarters (July 1st through June 30th). If the average number employees total a minimum of 87 employees with the agreed upon average wage in the Employment Agreement, Company shall be entitled to an additional rent refund, up to a Maximum Abatement of Rent as defined in the Employment Agreement, for the average number of employees employed in the preceding four (4) Quarters, up to 87, which exceed the rent abatement actually received. For example, if Company received total rent abatement for the previous 4 Quarters in the amount of \$227,584.00 (80 employees x \$711.20 per Quarter x 4 Quarters), however the average number of employees is a minimum of 87 employees, Company would be entitled to an additional \$19,916 rent refund payable within sixty (60) days of such review and determination by City.

Maximum 4 Quarter rent credit	\$247,500
<u>Credit received on 80 jobs</u>	<u>\$227,584</u>
Rent refund on 7 jobs (87-80)	\$19,916

3.5 All Quarterly rent and other payments required to be made by Company hereunder which shall remain unpaid thirty (30) days after their due dates shall bear interest at the rate of ten percent (10%) per annum until paid. All rent and other payments shall be made at or mailed by United States mail to the following address: Pueblo Development Foundation, 301 N. Main St., Suite 210., Pueblo, CO 81003, or such other address as PDF may from time to time designate to Company in writing. The existence of default interest on unpaid rent shall not alter, nor shall it be construed or interpreted to alter, or confer a grace period after, the due date of the rent as set forth in Section 3.4 above.

3.6 It is the intent of the Parties hereto that this Lease be a "net" lease with PDF incurring no obligation, monetary or otherwise, for any expense of any nature associated with the use and operation of the Leased Premises and any component part thereof by the Company.

4. Use of Leased Premises.

4.1. Company shall use the Leased Premises in a careful, safe and proper manner in compliance with all laws and regulations applicable to the Leased Premises and Company's use thereof. Company shall not cause, maintain or permit any nuisance or waste in, on, or about the Leased Premises.

4.2. The Leased Premises shall be used and occupied by Company exclusively for commercial purposes associated with or incident to Company's established business activities and for such other activities of Company as are reasonably incident thereto. Company shall not abandon nor cease to conduct business on the Leased Premises for any period longer than thirty (30) consecutive days.

4.3 The Parties agree that Company shall be allowed to construct improvements in or to the Leased Premises during the Term of this Lease. All expenses associated with such construction shall be paid by the Company. The Parties further agree that any improvements shall not be made or constructed without PDF's prior written consent which consent shall not be unreasonably withheld or unduly delayed. In connection with the construction of such improvements, Company shall not permit or allow any lien to be filed or recorded against the Leased Premises or PDF's or Company's interests therein. During and prior to any work on the Leased Premises, PDF and its agents shall have the right to enter the Leased Premises to post and keep posted thereon such notice or notices as are specified in C.R.S. Section 38-22-105(2). All improvements made in or to the Leased Premises by Company with PDF's consent shall become part of the Leased Premises and shall be surrendered with the Leased Premises at the termination of this Lease. In addition, all such improvements shall be constructed in compliance with the building codes, zoning and land use regulations of the City and in compliance with all laws and regulations applicable to the Leased Premises and Company's use thereof.

4.4. All equipment, fixtures and improvements of a detachable or temporary nature installed or placed upon the Leased Premises by Company, including trade fixtures, shall remain the property of Company, subject to Company's right, at its option, to remove same not later than thirty (30) days after termination of this Lease. Company shall repair all damage to the Leased Premises caused by such removal. The failure of Company to remove its equipment, fixtures and detachable improvements within thirty (30) days after termination of this Lease shall, at the option of PDF, be deemed an abandonment of such property and PDF may dispose of such property, at Company's expense, in a manner as PDF, in its sole discretion, may determine.

4.5. PDF shall not be obligated to repair, replace, maintain or alter the Leased Premises or any component part thereof. PDF will assign any warranties relating to the building to the Company. Company, at its expense, shall keep and maintain the Leased Premises, including, without limitation, the buildings, structural components including but not limited to foundation, floors, roofs and walls, fixtures, and electrical, heating, mechanical, plumbing and air conditioning systems, and adjacent sidewalks and parking area, in good condition and repair and in a good, clean and safe condition at all times and return the same to PDF in good condition and state of repair, except for ordinary wear. The duty of the Company to repair and maintain includes the duty to replace where repair or maintenance will not restore the component or system to good working condition.

4.6. If Company becomes obligated to make repairs and/or replacements which are or may be covered by any manufacturer's or General Contractor's warranty issued to or for the benefit of Company, Company will assign and transfer to PDF, Company's interest in any such warranty at the termination of this Lease. If any such warranty may not be legally assigned, Company, at the request of PDF, will in good faith enforce such warranty on behalf of PDF.

4.7. If Company becomes obligated to make repairs or install replacements caused by an occurrence covered by the insurance described in Section 7.4.3 hereof, the net proceeds of such insurance shall be made available to Company to offset the cost of such repairs, subject to the requirements of Section 28.1 hereof.

4.8. Signs. All signs and signing identification for the Premises and the placement thereof shall be subject to and made in compliance with the regulations of any governmental authority having jurisdiction at the premises. All costs related to such signage shall be paid by Company. Company shall obtain any necessary permits from governmental authorities for the erection and maintenance of its signs.

5. Condition of Leased Premises.

5.1 EXCEPT AS SPECIFICALLY SET FORTH IN THIS LEASE, IT IS UNDERSTOOD AND AGREED THAT PDF IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTY OR REPRESENTATION OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE LEASED PREMISES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OR REPRESENTATION AS TO HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ZONING, PHYSICAL OR ENVIRONMENTAL CONDITIONS, INCLUDING THE PRESENCE OF HAZARDOUS MATERIALS, UTILITIES, GOVERNMENTAL APPROVALS, COMPLIANCES OF THE LEASED PREMISES WITH GOVERNMENTAL LAWS, THE TRUTH, ACCURACY OR COMPLETENESS OF ANY

DOCUMENT OR OTHER INFORMATION PROVIDED TO COMPANY BY ANY OTHER PERSON OR ANY OTHER MATTER OR THING REGARDING THE LEASED PREMISES.

5.2 The taking of possession of the Leased Premises by Company after the Commencement Date shall be conclusive evidence that the Company accepts the Leased Premises in its then present condition "As Is, Where Is, With All Faults" and that the Leased Premises are in good and satisfactory condition at the time of the commencement of this Lease. In the event that PDF fails to complete the construction of improvements to the Leased Premises in accordance with the plans and specifications prepared by Nakai & Associates and entitled "200 Greenhorn Dr., Tenant Finish, Issued for Permit 06/28/23" and to obtain a Certificate of Occupancy from the Pueblo Regional Building Authority for the building on the Leased Premises on or before March 1, 2024, Company may terminate this Lease and upon such termination shall have no further obligations or liability of any nature under this Lease. Notwithstanding anything else in this Lease, should any latent hazardous condition, including but not limited to any Hazardous Material, as defined in Section 10.1, be discovered on the Leased Premises after commencement of the Term, about which Company had no knowledge and which was not discovered upon reasonable inspection prior to the commencement of the Term, the Company will have at its sole discretion the ability to terminate the lease. In such case, the Company will have no further obligations hereunder. Should Company decide not to terminate this Lease, Company shall be responsible for remediation costs and may request that PDF share the expenses associated with such remediation. Company and PDF understand that PDF cannot make any agreement on cost sharing without the expressed approval of the City.

6. Right of Entry.

Subject to Company's security requirements, PDF or PDF's officers, employees, agents and representatives, as the case may be, may enter the Leased Premises for the purpose of ensuring compliance with the terms of this Lease during normal business hours upon no less than 48 hours written notice to Company, except notice shall not be required in case of emergency, such as fire. In addition, PDF or its officers, employees, agents, and representatives may enter the Leased Premises during the last month of the initial term or any renewal term for the purposes of showing the premises to prospective new tenants.

7. Insurance and Indemnification.

7.1. PDF's Indemnity. PDF shall defend, indemnify and save harmless Company and its agents, employees, members and managers against all costs (including, without limitation, reasonable attorneys' fees), damages or claims whether for personal injury, bodily injury or property damage, during the Term of this Lease, occurring on the Leased Premises, if caused by an act or omission by PDF or its agents or employees.

7.2. Company's Indemnity. Company shall defend, indemnify and save harmless PDF and its agents and employees against all costs (including, without limitation, reasonable attorneys' fees), damages or claims whether for personal injury, bodily injury or property damage, during the Term of this Lease, occurring on the Leased Premises, if caused by an act or omission by Company or its agents or employees, arising out of Company's operations or Company's use or occupancy of Leased Premises, except to any extent caused by an act or omission by PDF or its agents or employees.

7.3. PDF's Insurance.

Liability Insurance. During the Term of this Lease, PDF must maintain insurance covering PDF's liability for ownership and use of the Leased Premises. Such insurance must provide limits of not less than \$1 million with respect to injury to any one person, \$1 million with respect to any one occurrence and \$500,000 with respect to property damage arising out of any one occurrence.

7.4. Company's Insurance.

7.4.1. Liability Insurance. During the Term, Company must maintain insurance covering Company's liability for occupation and use of the Leased Premises. Such insurance must provide limits of not less than \$1 million with respect to any one occurrence, \$2 million aggregate, and \$500,000 with respect to property damage arising out of any one occurrence.

7.4.2. Worker's Compensation Insurance. Company shall maintain and keep in force an "all-employees" compensation insurance policy as required under the laws of the State of Colorado.

7.4.3. Fire and Extended Coverage Insurance.

7.4.3.1. Company shall, at its expense, during the Term of this Lease, secure and maintain in full force and effect "All-Risk" property insurance (including, without limitation, fire, extended coverage and all risk perils including mechanical breakdown) upon the Leased Premises. Such insurance shall be in an amount not less than the full replacement value of the buildings and improvements and issued by an insurance company or association authorized to issue such policies under the laws of the State of Colorado and approved by PDF; shall name PDF as an additional insured and shall not be subject to cancellation, reduction or modification upon less than thirty (30) days' written notice to PDF. At the request of PDF, Company will furnish to PDF evidence of such insurance and its continuance during the Term of this Lease.

7.4.3.2. Company shall, at its expense, secure and maintain fire and extended coverage insurance on all fixtures, equipment and improvements installed by Company on the Leased Premises. Such insurance, by its terms or by endorsement, shall waive any right of subrogation of the insurer against PDF and its respective officers, agents and employees, for any loss or damage resulting from covered perils.

7.5. Insurance Requirements. All insurance required to be carried by the Parties hereunder shall be issued with a company or companies licensed and authorized to conduct business in the State of Colorado with an A.M. Best rating of B+ or higher, the Parties further agree to provide each other with copies of certificates of insurance for all policies required.

7.6. Waiver of Subrogation for Liability Insurance Policies. The Parties to this Lease hereby release each other and their respective officers, agents, managers, directors, and employees from any and all claims and demands for loss, damages, expense or injury to any person or to the Leased Premises or to personal property, to the extent such loss is covered by such Parties' liability insurance policies. The Parties shall each obtain from their respective insurers waivers of rights of subrogation where allowable, which the insurer of one Party might have against the other Party and PDF and Company shall each indemnify the other against any loss or expense, including reasonable attorneys' fees, resulting from the failure to obtain such waivers of subrogation.

8. Taxes.

8.1. Sales and Use Taxes. Company shall pay, before delinquency, any and all sales and use taxes levied or charged in connection with the construction of any improvements made by any person or entity other than PDF and by or on behalf of the Company on or to the Leased Premises and any of the personal property belonging to Company and situated on the Leased Premises or used in connection with the operation and maintenance of the improvements on the Leased Premises.

8.2. Property Taxes. Company shall pay, before delinquency, any and all personal property taxes and real property taxes levied or charged against the real property leased hereby and any of the personal property belonging to Company and situated on the Leased Premises or used in connection with the operation and maintenance of the improvements on the Leased Premises.

9. Utilities.

9.1 Company shall pay, before delinquent, any and all charges for electricity, heat or cooling, telephone, internet and all other utility services furnished to or used in or supplied to the Leased Premises during the Term. PDF shall not be obligated to furnish, provide, or pay for any utilities, facilities or services of any kind. PDF does warrant that all customary utilities including water, sewer, gas, electric and internet are available in the Leased Premises and separately metered to the Leased Premises.

10. Environmental Provisions.

10.1 For the purpose of this Lease, "Hazardous Materials" means any hazardous or toxic substance, material or waste which is or will become regulated by any local government authority, the State of Colorado or the United States government and shall include, but not be limited to (1) substances defined as "hazardous waste", "restricted hazardous waste", "hazardous substance" or "hazardous material" under any applicable federal, state or local law or regulation ("Environmental Regulations") (2) asbestos-containing materials (3) PCB's (4) petroleum or petroleum-based products, and (5) lead. Notwithstanding the foregoing, reasonable quantities of common office and/or cleaning materials shall not be considered Hazardous Materials for purposes of this Lease, provided that Company handles any such materials in accordance with all Environmental Regulations.

10.2 Company will comply with Environmental Regulations that are applicable to the Company and its use of the Leased Premises. No activity shall be undertaken by the Company, its employees, agents, licensees, invitees, contractors or subcontractors, on all or any portion of the Leased Premises which would cause: (i) the presence, use, generation, release, discharge, storage or disposal of any Hazardous Materials in, on, under, about, or from the Leased Premises or any part thereof in violation of any Environmental Regulations; (ii) any portion of the Leased Premises to become a hazardous waste treatment, storage or disposal facility without receiving proper governmental authorization, and in compliance with all Environmental Regulations; or (iii) the discharge of pollutants or effluents into any water source or system or the discharge into the air of any emissions without receiving proper governmental authorization, and in compliance with all Environmental Regulations, including, without limitation, the Federal Water Pollution Control Act, U.S.C. Section 1221 et seq. and the Clean Air Act, 42 U.S.C. Section 7401 et seq.

10.3 Except for (1) the presence of Hazardous Materials in, on or under the Leased Premises as of the commencement date of the Lease, or (2) the introduction to or presence of Hazardous Materials by PDF the Company agrees to defend, indemnify and forever hold harmless the Leased Premises and PDF, and their respective agents, successors, and assigns, as their interest may appear, from all claims, losses, damages, penalties, expenses and costs, including, but not limited to, reasonable attorneys' fees, remedial, and cleanup costs, incurred by reason of the use, storage, generation, release, discharge, maintenance, disposal, or removal of Hazardous Materials in, on, under, about or from the Leased Premises, or any part thereof, by Company, its employees, agents, licensees, authorized guests, contractors and subcontractors.

10.4 The provisions of this Section 10 shall expressly survive the expiration of the Term or other termination of this Lease.

11. Quiet Possession.

Company shall, and may peacefully have, hold and enjoy the Leased Premises, subject to the other terms hereof, provided that Company is not in default beyond any applicable notice and cure period under the Lease.

12. Default and Remedies.

Time is of the essence hereof. If any obligation required to be performed under this Lease is not performed there shall be the following exclusive remedies:

(a) If PDF is in Default: In the event PDF defaults in the performance of its obligations hereunder, Company shall have the right to (i) terminate this Lease by written notice to PDF or (ii) treat this Lease as being in full force and effect and to obtain specific performance, but not any damages. Such violations may be restrained or such obligations enforced by injunction at the instance and request of Company without the showing of any special damages or an inadequate remedy at law.

(b) If Company is in default: In the event of default at any time by Company in the payment of the monthly rent herein provided for, or in the performance of any other of its covenants herein contained, after thirty (30) days' notice in writing to Company and Company's failure within said thirty (30) day period to cure said default, this Lease shall terminate and Company shall have no further rights hereunder and PDF shall have no further obligations hereunder. Upon termination of this Lease, Company shall take reasonable measures to surrender possession of the Leased Premises to PDF in a timely manner. In the event of a default by Company that continues beyond the 30-day notice and cure period provided above, PDF may pursue any remedy whatsoever provided by law or equity.

(c) In the event the Parties hereto become involved in a dispute arising out of this Lease, or the performance or breach thereof, the Court shall award costs, expenses, and attorney fees to the prevailing Party.

13. Waiver.

No waiver of any breach or breaches of any provision, covenant or condition of this Lease shall be construed to be a waiver of any preceding or succeeding breach of such provision, covenant or condition, or of any other provision, covenant or condition.

14. Assignment.

This Lease and the rights granted to PDF hereunder may be assigned to the City, a Colorado municipal corporation, with notice provided to the Company. It shall be necessary for PDF to obtain Company's prior, written consent to any other proposed assignment of this Lease, which consent must not be unreasonably or unduly withheld, conditioned, or delayed.

14.1. Internal Assignments. Notwithstanding anything in this Lease to the contrary, Company has the right upon prior notice to PDF to assign this Lease, without PDF's consent, to a parent, subsidiary, or affiliate of Company, to a Company that has been merged or consolidated with Company, or to a Company acquiring all or substantially all of Company's physical assets, provided Company (or the resulting entity of any merger or consolidation) remains fully liable hereunder.

14.2. Outside Assignment Requirements. It shall be necessary for Company to obtain PDF's prior, written consent to any other proposed assignment of this Lease. However, PDF's consent must not be unreasonably or unduly withheld, conditioned, or delayed, provided, however, that PDF may withhold consent thereto if in the exercise of its sole judgment it determines that:

14.2.1. Financial Condition. The financial condition of the proposed assignee is not consistent with the extent of the obligations undertaken by the proposed assignment; or

14.2.2. Proposed Use. The proposed use of the Leased Premises is not appropriate for the Minnetonka Industrial Park.

15. Representations and Warranties of PDF.

The PDF represents and warrants to Company as follows:

(a) PDF has full power, capacity, and authority to execute and deliver this Lease and all other documents required to be executed and delivered by PDF under this Lease and to perform its obligations hereunder.

(b) This Lease has been duly authorized, executed and delivered by PDF and constitutes the legal, valid and binding obligation of PDF, enforceable against PDF in accordance with its terms.

(c) that PDF has disclosed to Company all easements, reservations, restrictions, covenants, limitations, rights-of-way, and conditions of record that apply to the Leased Premises known to PDF at the time of the execution of this Lease.

16. Representations and Warranties of Company.

Company represents, warrants and covenants as follows:

(a) Company has full power, capacity, and authority to execute and deliver this Lease and all other documents required to be executed and delivered by Company under this Lease and to perform its obligations hereunder.

(b) This Lease has been duly authorized, executed and delivered by Company and constitutes the legal, valid and binding obligation of Company, enforceable against Company in accordance with its terms.

17. Notices.

Any notice required or permitted to be given or delivered under this Lease shall be in writing and shall be deemed delivered upon receipt or refusal of receipt by the following forms of delivery; (a) Personal Delivery to the recipient; (b) Deposit with a nationally recognized overnight-guaranteed delivery service; (c) Deposit in a sealed envelope in the United States Mail, postage prepaid by registered or certified mail, return receipt requested, addressed to the recipient as set forth below; (d) by e-mail transmittal at the e-mail addresses set forth below.

(a) If to PDF, addressed to:

Pueblo Development Foundation
ATTN: Margaret Gaillard
301 N. Main St., Suite 210.
Pueblo, CO 81003
E-Mail: MGaillard@PEDCO.com

(b) If to Company, addressed to:

Fōmcore, LLC
ATTN: Ron Wallish
1770 East Keating Ave
Muskegon, MI 49442
E-Mail: Ron@fomcore.com

or to such other address or person as any Party may from time to time specify in a writing delivered to the other Party in the manner provided in this Section. Any notice shall be deemed delivered on the day on which personal delivery is affected or three (3) days after deposit in the mail in the case of registered or certified mail, and one (1) business day in the case of overnight courier.

With regards to E-Mail communications, each Party is solely responsible to ensure that the other's e-mail address is "white listed" to ensure that messages will not be caught by a spam filter or similar electronic filtering. E-mails are deemed received if they have been sent to the e-mail address provided above, even if not actually received by the other Party because of a spam filter or a technological problem beyond the sender's control. A response by one Party to any e-mail sent to the e-mail address of the other Party is conclusive proof of the functionality of the e-mail address as required under this Lease. Each Party is solely responsible for maintaining a viable e-mail address, for regularly checking its e-mail account(s), and for managing all spam filters applied to the account(s).

18. Modification.

No subsequent modification of any of the terms of this Agreement shall be valid or binding upon the Parties or enforceable unless made in writing and signed by the Parties.

19. Entire Agreement.

All understandings and agreements heretofore had between the Parties hereto considering the subject matter hereof are merged into this Lease which alone (together with the provisions of the Employment Agreement between the Company and the City that are referenced herein and a true and accurate and fully executed copy of which is attached hereto and made a part hereof by reference and labeled **Exhibit A**) fully and completely express the agreement and understanding of the Parties with respect to the Leased Premises. Said agreements are entered into after full investigation, neither Party relying upon any statement or representation, not embodied in this Lease or said other agreements, made by the other Party.

20. Captions.

The captions in this Lease are inserted for convenience of reference only and in no way define, describe, or limit the scope or intent of this Lease or any of the provisions hereof.

21. Validity.

If any provision of this Lease shall be held to be invalid or unenforceable, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Lease.

22. Broker.

Company and PDF represent and warrant to each other that no broker or finder has been engaged by such Party in connection with this transaction. PDF agrees to indemnify, defend and hold Company harmless from and against any and all claims, loss, liability, costs and expenses (including reasonable attorneys' fees), resulting from any claims that may be made against Company by any broker or other person claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of PDF. Company agrees to indemnify, defend and hold PDF harmless from and against any and all claims, loss, liability, costs and expenses (including reasonable attorneys' fees), resulting from any claims that may be made against PDF by any broker or other person claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of Company.

23. Applicable Law.

This Agreement will be construed and enforced in accordance with the laws of the State of Colorado (without giving effect to its choice of law principles).

24. Interpretation.

Whenever the context so requires, the singular number shall include the plural and the plural the singular, and the use of any gender shall include all genders. In addition, 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.

25. Survival of Representations.

The representations, warranties, covenants and agreements of Company and PDF in this Agreement are and shall be construed to be covenants running with the Leased Premises and shall survive the expiration or termination of this Lease.

26. Third Parties.

Company and PDF and their respective successors and permitted assigns are the only Parties to this Lease and are the only parties entitled to enforce this Lease. Nothing contained in this Lease nor any provision hereof is intended to give or shall be construed to give or confer, directly or indirectly, or otherwise, upon any third party any right, remedy or benefit hereunder.

27. Venue and Waiver of Trial by Jury.

PDF AND COMPANY HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION OF THE DISTRICT COURT, PUEBLO COUNTY, STATE OF COLORADO IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS LEASE AND HEREBY IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING SHALL BE HEARD AND DETERMINED IN THE DISTRICT COURT OF PUEBLO COUNTY, STATE OF COLORADO. COMPANY AND PDF AGREE THAT THE PROVISIONS OF THIS SECTION 27 SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS LEASE. TO THE FULL EXTENT PERMITTED BY LAW, COMPANY AND PDF HEREBY WAIVE THEIR RIGHTS TO A TRIAL BY JURY.

28. Damage to or Destruction of Leased Premises.

28.1. If, during the Term of this Lease, the Leased Premises shall be damaged to such an extent that the repair of such damage and the restoration of the Leased Premises can be accomplished, with reasonable diligence, within one hundred eighty (180) days after such damage, Company shall promptly repair such damage and cause the Leased Premises to be restored to their condition prior to the event causing the damage. If, during the Term of this Lease, the Leased Premises shall be destroyed or damaged, or partially destroyed or damaged, to such an extent that the repair of such destruction or damage and the restoration of the Leased Premises cannot be accomplished, with reasonable diligence, within one hundred eighty (180) days after such destruction or damage, then Company shall promptly notify PDF in writing of such fact within ten (10) days after the date of such destruction or damage and Company shall thereafter have the right, during a period of thirty (30) days following such notification, to terminate this Lease by written notice to PDF, declaring this Lease to be terminated provided, however, that, as a condition precedent to such termination the proceeds of insurance for the real property and building improvements required to be maintained by Company under Section 7.4.3 (or an amount equal to the insurance proceeds which would have been available but for the failure to maintain such insurance) shall be paid by Company to PDF. Unless such notice of immediate termination shall be given within such 30-day period, this Lease shall continue in full force and effect and Company shall promptly repair such destruction or damage and cause the Leased Premises to be restored to their condition prior to the event causing the destruction or damage. In the event the Leased Premises are destroyed or damaged, or partially destroyed or damaged without Company's fault, the quarterly rent payable by Company shall be excused proportionately according to the floor area

of the Leased Premises which is useable by Company. Such rent cancellation shall continue for the period commencing with such damage or destruction and ending when Company completes repair work or reconstruction, provided Company diligently commences and expeditiously completes the repair work or reconstruction. The cancellation of such rent payments shall not release the Company of its obligation to pay the remaining rent owed by the Company under Section 3.1 hereof less any rent abatements earned by the Company under Section 3.2.

28.2. Company shall make the repairs, restoration or rebuilding as expeditiously as possible in accordance with plans and specifications submitted to and approved in writing by PDF and in compliance with all applicable laws, regulations, and codes.

29. Eminent Domain.

If the whole or substantial part of the Leased Premises shall be taken or condemned by any competent authority for any public or quasi-public use or purpose under any statute or by the right of eminent domain, or purchased under threat of such taking, and if the taking of such portion would not allow the Company to conduct its regular business in the ordinary course, then this Lease shall terminate on the date when the condemning authority takes possession of the Leased Premises or the substantial part thereof so taken, and Company shall have no further obligations thereunder. There shall be no apportionment of the award for taking or condemnation, the entire award going to the PDF, provided Company shall have the right to recover any award which may be made for damages to or condemnation of Company's movable trade fixtures, equipment, furniture and furnishings or payments for relocation, if any.

30. Holding Over.

If Company shall hold over after the expiration of the term of this Lease, without a signed renewal or new Lease, then Company shall be deemed a tenant from quarter to quarter, subject to all of the terms and conditions set forth in this Lease, except that the quarterly rental due under Section 3.1 hereof shall increase by 25% per quarter due and payable in accordance with the provisions of this Lease. Nothing in this Section shall be construed as permission of the PDF to hold over beyond the expiration of the Term of this Lease.

31. Recording.

Neither Party shall record this Lease or any short form memorandum of this Lease.

32. Liability of PDF.

In no event shall PDF, its officers, agents or employees be liable to Company for damages, including without limitation, direct, compensatory, punitive, indirect, special or consequential damages, resulting from or arising out of or related to this Lease or the performance or breach

thereof by PDF or the failure or delay of PDF in the performance of any covenant or provision under this Lease on its part to be performed. In consideration of PDF entering into this Lease, Company hereby waives and discharges PDF, its officers, agents and employees from all claims for any and all such damages. No breach, default, delay, or failure of PDF under this Lease shall be or be construed to be a waiver, discharge or release of Company's obligation to pay rent under Section 3.1 hereof less any rent abatements earned by the Company under Section 3.2 hereof. In the event of a breach of this Agreement by PDF, Company's sole and exclusive remedy shall be to terminate this Lease as permitted herein, or to bring an equitable action for specific performance in the District Court of Pueblo County, Colorado. Such violations may be restrained or such obligations enforced by injunction at the instance and request of Company without the showing of any special damages or an inadequate remedy at law.

33. Counterparts.

This Lease may be executed in any number of 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.

[Signatures to appear on the following page.]

Executed at Pueblo, Colorado, the day and year first above written.

PUEBLO DEVELOPMENT FOUNDATION
A Colorado Nonprofit Corporation

By: _____

Name: _____

Title: _____

STATE OF COLORADO)
) ss.

COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this ____ day of July, 2023 by
_____ as _____ of the Pueblo Development
Foundation, a Colorado nonprofit corporation.

Witness my hand and official seal.

My commission expires: _____.

[S E A L]

Notary Public

COMPANY : Fomcore, LLC, A Michigan Limited Liability Company

By: _____

Name: _____

Title: _____

STATE OF _____)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of July, 2023 by
_____ as _____ of Fomcore, LLC, a Michigan
Limited Liability Company.

Witness my hand and official seal.

My commission expires: _____.

[S E A L]

Notary Public



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: August 14, 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 UNITED WAY OF PUEBLO COUNTY, INC., A COLORADO NONPROFIT CORPORATION, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF SIX HUNDRED THOUSAND DOLLARS (\$600,000) 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 United Way of Pueblo County, Inc. a Colorado nonprofit corporation ("United Way") for training programs, technology, office space and other resources for local nonprofits at its nonprofit Leadership, Empowerment and Development ("LEAD") 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 \$600,000 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 construction, acquisition, site development, engineering and architectural work for a new or rehabilitated building from which United Way shall provide expanded services.

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:

A LEAD Center is necessary to meet the post-pandemic needs of local nonprofits. United Way recently conducted a survey of 19 partnering nonprofits and found that 42.1% of respondents saw a "significantly increased" community demand for their services. Respondents simultaneously reported their own struggles with increased expenses, staff burnout and budget reductions. About 63.2% of survey respondents felt their organization was the same to significantly worse compared to before the pandemic. Over 68% of survey respondents said "collaboration and service alignment" with other nonprofits would benefit their organizations. Survey respondents also requested increased opportunities for public outreach, training and grant writing services. United Way would provide these benefits through establishment of a LEAD center.

To be effective, the location of the LEAD Center must be centrally located, handicap accessible and near a bus transit route. United Way estimates that approximately 10,000 square feet of office space and conference room space would be necessary for future use by local nonprofits. United Way also proposes to relocate its operations into the LEAD Center.

United Way's proposed LEAD Center would be patterned after United Way of Larimer County's [Shared Services Program](#), which offers human resources, grant writing, graphic design, communication and other "back-office services" to Larimer County nonprofits.

This ARPA grant award is also 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.

The LEAD Center must be located in a Qualified Census Tract ("QCT") of the City of Pueblo.

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.

During the term of the attached Subrecipient Agreement, United Way shall be required to provide the following programming and achieve the following outcomes:

LEAD Center Programming

- Nonprofit Collaboration/Innovation Hub
- Technology/Resources
- Nonprofit LEAD Training Program
- Shared Resources
- Training Center for United Way’s Community Impact Fellowship
- Office Space (below market rates)
- Regional Nonprofit Training Center

LEAD Center Outcomes

- Increase efficiencies and improve service delivery
- Leverage resources to address root causes of inequity
- Support community-wide solutions that result in systems change
- Economic impact, both directly and indirectly, through resources reinvested back into the Pueblo community and significant cost savings

FINANCIAL IMPLICATIONS:

United Way will receive \$600,000 in ARPA funds from Project No.CI2113.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could decide not to support United Way's LEAD initiative.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. UPDATED - ARPA - Subrecipient Agreement between City and United Way

ORDINANCE NO. 10521

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND UNITED WAY OF PUEBLO COUNTY, INC., A COLORADO NONPROFIT CORPORATION, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF SIX HUNDRED THOUSAND DOLLARS (\$600,000) 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 February 13, 2023, between the City of Pueblo, a Colorado municipal corporation and United Way of Pueblo County, Colorado, Inc., 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 \$600,000 are hereby authorized to be paid from Project No. CI2113 – American Rescue Plan Act, for purposes of providing financial support to United Way’s Leadership, Empowerment and Development (“LEAD”) 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 July 24, 2023.

Final adoption of Ordinance by City Council on August14, 2023.



President of City Council

Action by the Mayor:

☒ Approved on August 17, 2023.

☐ Disapproved on _____ based on the following objections:



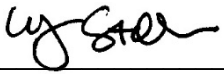
Mayor

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

SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2023 (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and United Way of Pueblo County, Colorado, Inc., a Colorado nonprofit corporation, hereinafter referred to as the "Subrecipient" or "United Way." City and Subrecipient/County are sometimes each referred to as a "Party" and collectively "Parties."

RECITALS

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

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

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

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

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

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

WHEREAS, 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 offer training programs, technology, office space and other resources for local nonprofits at its nonprofit Leadership, Empowerment and Development (LEAD) 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) A LEAD Center is necessary to meet the post-pandemic needs of local nonprofits. Through continuous interactions and partnerships within the nonprofit community, it has been shared that additional support would be beneficial in aiding the ability of nonprofits to accomplish their missions and best meet the needs of clients. This is especially true in attempting to rebuild due to the effects of the COVID-19 pandemic on funding and need levels. In addition to anecdotal information, United Way recently conducted a survey of 19 partnering nonprofits and found that 42.1% of respondents saw a "significantly increased" community demand for their services. Respondents simultaneously reported their own struggles with increased expenses, staff burnout and budget reductions. About 63.2% of survey respondents felt their organization was the same to significantly worse compared to before the pandemic. Over 68% of survey respondents said "collaboration and service alignment" with other nonprofits would benefit their organizations. Survey respondents also requested increased opportunities for public outreach, training and grant writing services. United Way would provide these benefits through construction of a LEAD center. Survey participation remains open, and feedback is being collected on an ongoing basis. The Nonprofit LEAD Center would serve as a key resource for nonprofits, the people who work and volunteer with them. It would allow for shared meeting and office space, resources, and encourage the ability to work in partnership. Much more can be accomplished as a nonprofit community by working together than by working in silos. NPOs play a fundamental role in creating equitable and thriving communities, and by coming together it is possible to ensure all have the resources we need to be successful.
- (b) To be effective, the location of the LEAD Center must be centrally located, handicap accessible and near a bus transit route. Subrecipient estimates that approximately 10,000 square feet of office space and conference room space would be necessary for future use by local nonprofits. United Way also proposes to relocate its operations into the LEAD Center.
- (c) United Way's proposed LEAD Center would be patterned after United Way of Larimer County's Shared Services Program, which offers human resources, grant writing, graphic design, communication and other "back-office services" to Larimer County nonprofits.

- (d) This ARPA grant award is also 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.
- (e) The LEAD Center must be located in a Qualified Census Tract ("QCT") of the City of Pueblo.
- (f) 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).
- (g) 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.
- (h) During the term of this Subrecipient Agreement, United Way shall be required to provide the following programming and achieve the following outcomes:

LEAD Center Programming

- Nonprofit Collaboration/Innovation Hub
- Technology/Resources

- Nonprofit LEAD Training Program
- Shared Resources
- Training Center for United Way's Community Impact Fellowship
- Office Space (below market rates)
- Regional Nonprofit Training Center

LEAD Center Outcomes

- Increase efficiencies and improve service delivery
- Leverage resources to address root causes of inequity
- Support community-wide solutions that result in systems change
- Economic impact, both directly and indirectly, through resources reinvested back into the Pueblo community and significant cost savings

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 as City's authorized representative.

4. SUBRECIPIENT'S COMPENSATION AND METHOD OF PAYMENT

- (a) The City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Subrecipient has expended funds for eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City, (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.
- (b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.
- (c) The aggregate of all payments made hereunder shall not exceed Six Hundred Thousand Dollars (U.S. \$600,000.00). City shall make said funds available to

Subrecipient within thirty (30) days following approval of this Agreement by the City Council of the City of Pueblo and execution of this Agreement by the Subrecipient. The use of said funds shall be limited to expenditures to offset the costs for the construction, acquisition, site development, engineering and architectural work for a new or rehabilitated building from which the Subrecipient shall provide expanded services, as set forth in this Subrecipient Agreement. If United Way uses ARPA funds to purchase real property for its LEAD Center, prior to disbursement of such funds, United Way shall provide the City with (i) a copy of a Real Property Appraisal Report issued by a Certified General Appraiser licensed by the Board of Real Estate Appraisers, Division of Real Estate, Department of Regulatory Agencies of the State of Colorado; and (ii) a copy of the Contract to Buy and Sell Real Estate in which the purchase price does not exceed the amount of the appraisal report. If approved, funds shall be paid at closing of Subrecipient's purchase of real property.

- (d) Notice pursuant to 2 CFR 25.300 – Requirement for recipients to ensure subrecipients have a unique entity identifier:
 - A recipient of ARPA funds, such as the City of Pueblo, may not make a subaward to a subrecipient unless the subrecipient has obtained and provided to the recipient a unique entity identifier. Subrecipients are not required to complete full SAM registration to obtain a unique entity identifier.
 - A recipient must notify any potential subrecipients that the recipient cannot make a subaward unless the subrecipient has obtained a unique entity identifier.
- (e) Upon expiration of the term of this Agreement or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

5. TERM OF PROJECT AND AGREEMENT

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 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 or for such other period as may be required under federal regulations applicable to such provisions.

6. TERMINATION OF AGREEMENT

- (a) For Cause: This Agreement may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the

appropriateness thereof shall be final and binding upon both City and Subrecipient. Cause for termination shall include any material failure by Subrecipient to comply with any term of this Agreement.

- (b) For Convenience: This Agreement may be terminated by City for convenience upon ten (10) days written notice to Subrecipient, which decision shall not be subject to appeal.
- (c) Post Expiration and Termination Procedures: Upon expiration or in the event of a prior termination, all remaining and unspent grant funds, shall immediately become the sole and separate property of the City and the Subrecipient shall perform all acts and execute all instruments necessary to transfer and assign such funds to the City. All finished or unfinished documents, data, studies, reports, and work product prepared by the Subrecipient under this Agreement or with grant funds shall, at the option of the City, become City's property.

7. ASSIGNABILITY

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

8. CONFLICT OF INTEREST

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

9. SUBRECIPIENT RECORDS

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

10. MONITORING AND EVALUATION

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

11. SUBRECIPIENT FILES AND INFORMATION REPORTS

The Subrecipient shall maintain files containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances and activity reports. These records shall be retained by the Subrecipient for a period of three years after the completion of the Project. Financial and activity reports shall be submitted quarterly no later than the ninth day of the month following the end of the quarter for which the report is submitted.

12. INDEPENDENCE OF SUBRECIPIENT

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

13. LIABILITY AND INSURANCE

- (a) As to the City, Subrecipient agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in conjunction with or arising out of the performance or nonperformance of this Agreement by Subrecipient or by the conditions created thereby. Subrecipient further agrees to indemnify and save harmless the City, its officers, agents and employees, from and against all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property or based upon or arising out of the performance or nonperformance of this Agreement by Subrecipient or out of any violation by Subrecipient of any statute, ordinance, rule or regulation.
- (b) During the term of the Project, Subrecipient shall maintain Workers' Compensation Insurance complying with statutory requirements in Colorado.

14. CERTIFICATIONS

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

15. REVERSION OF ASSETS

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

16. PERA LIABILITY

The Subrecipient shall reimburse the City for the full amount of any employer contribution required to be paid by the City of Pueblo to the Public Employees' Retirement Association ("PERA") for salary or other compensation paid to a PERA retiree performing Agreement ed services for the City under this Agreement. The Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

17. ENTIRE AGREEMENT; AMENDMENTS

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

18. GOVERNMENT IMMUNITY. The City does not waive or intend to waive, by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act § 24-10-101 to 120, C.R.S., or otherwise available under applicable law.

19. NO THIRD-PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party. It is the express intention of the Parties that any person other than the Parties receiving services or benefits under the Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation

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

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

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

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

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

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

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

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

ATTEST:

CITY OF PUEBLO
A COLORADO MUNICIPAL
CORPORATION

City Clerk

By _____
Nicholas A Gradisar, Mayor

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 including but not limited to building acquisition, start-up, supplies and operating expenses, personnel expenses and programming expenses. 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 and consistent with all requirements set forth herein including but not limited to the Section 1 of the Agreement "Factual Basis for the Grant Award".

The components of the Subrecipient's work plan under this Agreement shall be as follows:

Establish a LEAD Center

Offer training programs, technology, office space and other resources for local nonprofits at Subrecipient's nonprofit Leadership, Empowerment and Development (LEAD) Center.

LEAD Center Programming

- Nonprofit Collaboration/Innovation Hub
- Technology/Resources
- Nonprofit LEAD Training Program
- Shared Resources
- Training Center for United Way's Community Impact Fellowship
- Office Space (below market rates)
- Regional Nonprofit Training Center

Subrecipient's performance under this Subrecipient Agreement shall be assessed by the following criteria:

LEAD Center Outcomes

- Increase efficiencies and improve service delivery
- Leverage resources to address root causes of inequity
- Support community-wide solutions that result in systems change
- Economic impact, both directly and indirectly, through resources reinvested back into the Pueblo community and significant cost savings

C. Budget

\$523,200	Downtown LEAD Center Building (~15,000 sq. ft.) acquisition
\$76,800	1 FTE for shared grant writing and grant management support for participating NPOs.
\$600,000	Total

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) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury, including but not limited to (a) Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act; (b) 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, (c) To the extent consistent with law and in accordance with 2 C.F.R. § 200.322, Subrecipient and all of its subcontractors will to the greatest extent practicable under the Agreement, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). This requirement must be included in all contracts and purchase orders which Subrecipient may enter into.

EXHIBIT D

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

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

- a) Are you, or do you employ or engage in any capacity, including an independent Agreement or, a PERA Retiree who will perform any services for the City of Pueblo? Yes __, No __.
- b) If you answered "yes" to (a) above, please answer the following question: Are you an individual, sole proprietor or partnership, or a business or company owned or operated by a PERA Retiree or an affiliated party? Yes __, No __.
- If you answered "yes" please state which of the above entities best describes your business:
- c) If you answered "yes" to both (a) and (b), please provide the name, address and social security number of each such PERA Retiree.

Name

Address

Social Security Number

Name

Address

Social Security Number

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

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

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

Signed _____, 20____.

By: _____

Name: _____

Title: _____

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



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Bryan Gallagher, Director of Housing and Citizen Services

SUBJECT: AN ORDINANCE APPROVING AN AGREEMENT TO BUY AND SELL REAL ESTATE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND PUEBLO URBAN RENEWAL AUTHORITY, A PUBLIC BODY CORPORATE AND POLITIC OF THE STATE OF COLORADO, RELATING TO THE SALE OF PROPERTY AT 612 E. 2ND STREET, PUEBLO, COLORADO AND 618 E. 2ND STREET, PUEBLO, COLORADO FOR THE AMOUNT OF TEN THOUSAND, EIGHT HUNDRED, FORTY-SIX DOLLARS AND TWENTY-FIVE CENTS (\$10,846.25), AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

Attached is an Ordinance approving, and authorizing the Mayor to sign, an agreement for the City to sell two parcels of unimproved land located at 618 & 612 E. 2nd Street in the Mattices Subdivision (Parcel 1 and Parcel 2) to Pueblo Urban Renewal Authority for Two Thousand, Seven Hundred, Twelve Dollars and Eighty-Nine Cents (\$2,712.89) and Eight Thousand, One Hundred, Thirty-Three Dollars and Thirty-Six Cents (\$8,133.36), respectively, for a total of Ten Thousand, Eight Hundred, Forty-Six Dollars and Twenty-Five Cents (\$10,846.25).

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

The property at 618 E 2nd Street was acquired by the City through the redemption of a tax lien and the adjacent property at 612 E. 2nd Street was purchased from the owner, both in 2012. The Properties are more specifically designated as:

Parcel: 431232004

Legal Description: Lot Six and Seven (6 and 7), Block Twenty (20), Mattices

Subdivision

Commonly known as: 618 E. 2nd Street, Pueblo, Colorado 81001
(hereinafter referred to as "Parcel 1")

AND

Parcel: 431232005

Legal Description: Lot Eight and Nine (8 and 9), Block Twenty (20), Mattice's Subdivision

Commonly known as: 612 E. 2nd Street, Pueblo, Colorado 81001
(hereinafter referred to as "Parcel 2")

FINANCIAL IMPLICATIONS:

The City will receive \$10,846.25 from the sale. Closing costs and fees will be paid by the Pueblo Urban Renewal Authority. The Pueblo Urban Renewal Authority will pay for title insurance. Proceeds of the sale will reimburse the U.S. Department of Housing and Urban Development for costs associated with acquisition and holding.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council may decide not to sell the Property.

RECOMMENDATION:

Approval of this Ordinance.

ATTACHMENTS:

1. Agreement to Sell Real Estate/Warranty Deeds

ORDINANCE NO. 10522

AN ORDINANCE APPROVING AN AGREEMENT TO BUY AND SELL REAL ESTATE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND PUEBLO URBAN RENEWAL AUTHORITY, A PUBLIC BODY CORPORATE AND POLITIC OF THE STATE OF COLORADO, RELATING TO THE SALE OF PROPERTY AT 612 E. 2ND STREET, PUEBLO, COLORADO AND 618 E. 2ND STREET, PUEBLO, COLORADO FOR THE AMOUNT OF TEN THOUSAND, EIGHT HUNDRED, FORTY-SIX DOLLARS AND TWENTY-FIVE CENTS (\$10,846.25), AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

SECTION 1.

The Agreement to Buy and Sell Real Estate ("Agreement") dated July 10, 2023, between the City of Pueblo, a Municipal Corporation, and Pueblo Urban Renewal Authority, a Public Body Corporate and Politic of the State of Colorado, a copy of which is attached hereto and is incorporated herein by this reference, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is authorized to execute and deliver the Agreement in the name of the City and the City Clerk is authorized to fix the seal of the City thereto and attest same. The Mayor is further authorized to execute and deliver the accompanying Special Warranty Deeds and related documents at closing, transferring the property owned by the City to Pueblo Urban Renewal Authority in the manner described in the Agreement.

SECTION 3.

Proceeds from the sale in the amount of \$10,846.25 are to be repaid to the U.S. Department of Housing and Urban Development.

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 appropriate 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 July 24, 2023.

Final adoption of Ordinance by City Council on August 14, 2023.



President of City Council

Action by the Mayor:

☒ Approved on August 17, 2023.

☐ Disapproved on _____ based on the following objections:



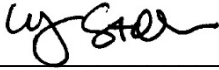
Mayor

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 TO BUY AND SELL REAL ESTATE

THIS AGREEMENT ("Agreement") is made the ____ day of ____, 2023 ("Effective Date"), between the City of Pueblo, a Colorado municipal corporation, (hereinafter called the "Seller"), and the Pueblo Urban Renewal Authority, a public body corporate and politic of the State of Colorado (hereinafter called the "Purchaser").

WHEREAS, the Seller has entered into agreements with the U.S. Department of Housing and Urban Development ("HUD"), whereby federal financial assistance was made available to Seller for the Neighborhood Stabilization Program ("NSP") established by Division B, Title III of the Housing and Economic Recovery Act of 2008 ("HERA"); and

WHEREAS, in accordance with the NSP and related regulations, a portion of such financial assistance was used to purchase the property noted below for affordable housing purposes; and

WHEREAS, Purchaser now desires to purchase said property and will pay Seller for any portion of the federal financial assistance due back to the federal government because of the purchase.

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants, terms and conditions set forth herein, the parties agree as follows:

1. Property Defined. The Seller agrees to sell and convey to the Purchaser, and the Purchaser agrees to purchase from the Seller, all the certain plat, piece, and parcel of land having the following legal descriptions:

Parcel: 431232004

Legal Description: Lot Six and Seven (6 and 7), Block Twenty (20), Mattices Subdivision

Commonly known as: 618 E. 2nd Street, Pueblo, Colorado 81001
(hereinafter referred to as "Parcel 1")

AND

Parcel: 431232005

Legal Description: Lot Eight and Nine (8 and 9), Block Twenty (20), Mattice's Subdivision

Commonly known as: 612 E. 2nd Street, Pueblo, Colorado 81001
(hereinafter referred to as "Parcel 2")

all in the County of Pueblo, State of Colorado (Parcel 1 and Parcel 2 together referred to as the "Property").

Upon full payment by Purchaser of all sums due to the federal government, the Property shall be conveyed by Special Warranty Deeds ("Deeds"), the form of which, marked as Appendix 1, are attached hereto, and incorporated herein by reference. Subject to Purchaser's right to object to title exceptions established by Section 5, the Property shall be conveyed subject to and subordinate to all easements, reservations, restrictions, covenants, limitations, rights-of-way, and conditions of record and zoning and subdivision regulations and regulations of the City of Pueblo and the Permitted Exceptions (as hereinafter defined), which shall be listed as exceptions in the Special Warranty Deed, subject to satisfaction of the conditions listed in this Agreement.

2. Purchase Price. Purchaser shall pay \$2,712.89 for Parcel 1 and \$8,133.36 for Parcel 2, for a total purchase price of \$10,846.25, to be paid as provided in, and subject to, Paragraph 3 below (the "Purchase Price").

3. Payment of Purchase Price. The Purchase Price for the Property shall be payable at Closing in cash or certified funds. Should Seller owe funds to the federal government exceeding the Purchase Price because of the sale of the Property, Purchaser shall be responsible for the same and pay any further amounts due, in an amount not to exceed \$20,000.00, to the federal government because of the sale.

4. Real Property Taxes. General real property taxes and assessments for tax year 2023, if any, shall be prorated and paid at Closing by the Purchaser on the basis of the 2022 tax year.

5. Title Commitment and Policy. Within ten (10) days of the date hereof and, in any event, at least twenty (20) days prior to the Closing Date, Seller shall order and obtain, and deliver to Purchaser, at Purchaser's expense, a current commitment for extended coverage title insurance in the amount of the Purchase Price, together with legible copies of all documents listed as exceptions therein, and a current certificate of taxes due with respect to the Property, from a title company selected by Seller, and reasonably acceptable to Purchaser, authorized to issue title insurance in the state of Colorado (the "Title Company"), on the current standard form of extended ALTA Owners Policy (collectively, the "Title Commitment"). The Title Company shall promptly provide copies of any amendments or modifications of the Title Commitment to Purchaser. Purchaser shall have the right to review the Title Commitment and the title documents and notify Seller in writing of any title objections to the title exceptions set forth in the Title Commitment. Seller shall have five (5) days from receipt of notice of such objections within which to eliminate or modify (or agree in writing to so eliminate or modify) any such unacceptable exceptions to the reasonable satisfaction of Purchaser, but Seller shall have no obligation whatsoever to so eliminate or modify any such unacceptable exceptions. In the event that Seller is unable or unwilling to eliminate or modify (or agree in writing to so eliminate or modify) such unacceptable exceptions to the reasonable satisfaction of Purchaser on or before the expiration of said five (5) day period, Seller shall notify Purchaser in writing of such fact within said five (5) day period or be deemed to have so notified Purchaser with respect to all such unacceptable exceptions not theretofore cured upon the fifth (5th) day of said period. In such event, Purchaser shall, prior to the Closing Date either (i) waive such objections and accept title to the Property subject to title exceptions set forth in the Title Commitment (the "Permitted Exceptions"), or (ii) terminate this Agreement by written notice to Seller, whereupon this Agreement shall automatically be terminated and of no further force and effect, except as otherwise expressly set forth herein. At Closing or as soon as reasonably practicable after Closing, the Title Company shall issue and deliver to Purchaser the owner's title insurance policy referred to above (the "Title Policy"), issued by the Title Company insuring Purchaser's title to the Property consistent with the Title Commitment subject only to taxes and assessments for the year of Closing and subsequent years, subject to and subordinate to all easements, reservations, restrictions, covenants, limitations, rights-of-way and conditions of record and zoning and subdivision regulations and regulations of the City of Pueblo and the Permitted Exceptions. At Closing, Purchaser shall pay the premium for the Title Policy. Purchaser may obtain such other endorsements to the Title Policy as Purchaser desires, at the expense of Purchaser. Subject to Purchaser's right to object to title exceptions and right to terminate this Agreement, Purchaser shall provide such affidavits or certificates, and pay such expenses, as may be required by the Title Company to remove all liens, including, without limitation, mechanics' or materialmen's liens, as exceptions to the Title Policy.

6. Closing Time and Place. Closing of the transaction contemplated hereby ("Closing") shall be held at the offices of Land Title Guarantee Company ("LTGC"), 503 N. Main Street, Suite 2, Pueblo, Colorado 81003, at a date and time as agreed by Seller and Purchaser.

7. Closing Costs. The Purchaser shall be responsible for all closing costs.

8. Broker. Purchaser and Seller represent and warrant to the other that no broker or finder has been engaged by such Party in connection with this transaction. Purchaser agrees to indemnify, defend and hold Seller harmless from and against any and all claims, loss, liability, costs and expenses (including reasonable attorneys' fees), resulting from any claims that may be made against Seller by any broker or other person claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of Purchaser.

9. Disclaimers. Except as expressly set forth in this agreement, it is understood and agreed that Seller is not making and has not at any time made any warranties or representations of any kind or character, expressed or implied, with respect to the property, including, but not limited to, any warranties or representations as to habitability, merchantability, fitness for a particular purpose, title (other than Seller's special warranty of title to be set forth in the Special Warranty Deed), zoning, tax consequences, physical or environmental condition (including, but not limited to, hazardous materials contamination), utilities, operating history or projections, valuations, governmental approvals, the compliance of the property with governmental laws, or any other matter or thing regarding the property. Purchaser acknowledges and agrees that, except as expressly set forth in this Agreement and the Special Warranty of Title to be set forth in the Special Warranty Deed, upon closing Seller shall sell and convey to Purchaser and Purchaser shall accept the property "as is, where is, with all faults." Purchaser and Seller agree that the provisions of this paragraph 9 shall survive the closing of the transaction contemplated by this Agreement and the recording of the Special Warranty Deed hereunder.

10. In addition to Paragraph 9 hereof, Seller and Purchaser agree that the provisions of this Agreement shall survive Closing and the recording of the Special Warranty Deed.

11. All understandings and agreements heretofore had between the parties hereto are merged into this Agreement, which alone fully and completely expresses their agreement, and this Agreement is entered into after full investigation, neither party relying upon any statement or representation not embodied in this Agreement and made by the other. This Agreement may not be changed or terminated orally.

12. Use of the Property. Purchaser shall use the Property and construct single-family residential homes for sale to buyers. Purchaser must commence construction on the Property within eighteen months from the Effective Date, but in no event later than December 31, 2024. Seller hereby intends to create a new special limitation and possibility of reverter, and Seller intends the same to be in addition to any other special limitation and possibility of reverter and any other condition subsequent and right of entry which may be in existence. In the event Purchaser fails (i) to pay all amounts due under this Agreement, (ii) to construct single-family residential homes for sale to buyers, or (iii) to commence construction on the Property within eighteen months from the Effective Date, but in no event later than December 31, 2024, the Property shall automatically revert to Seller at no additional cost and Purchaser shall execute any and all documents needed to effectuate such reverter. The parties acknowledge and agree this possibility of reverter is for a public purpose.

13. The provisions in this Agreement are to apply to and bind, and inure to the benefit of, the heirs, executors, administrators, successors, and assigns of the respective parties.

14. 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.

15. Applicable Law. This agreement shall in all respects be governed by, and construed in accordance with, the laws of the State of Colorado. Seller and Purchaser hereby irrevocably submit to the personal and subject matter jurisdiction of the District Court, Pueblo County, State of Colorado in any action or proceeding arising out of or relating to this agreement and hereby irrevocably agree that all claims in respect of such action or proceeding shall be heard and determined in the District Court of Pueblo County, State of Colorado. Purchaser and Seller agree that the provisions of this Paragraph 15 shall survive the closing of the transaction contemplated by this agreement and the recording of the Special Warranty Deed hereunder. To the full extent permitted by law, Purchaser and Seller hereby waive their rights to a trial by jury.

16. The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Seller and Purchaser, and their respective heirs, executors, administrators, successors and assigns only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.

17. The following schedules or appendices attached hereto shall be deemed to be an integral part of this Agreement: Appendix 1 – Special Warranty Deeds.

18. The section headings appearing in this Agreement are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection hereof.

19. Liability of Seller. In no event shall Seller, its officers, agents, or employees be liable to Purchaser for damages, including without limitation, compensatory, punitive, indirect, special, or consequential damages, resulting from or arising out of or related to this Agreement or the performance or breach thereof by Seller or the failure or delay of Seller in the performance of any covenant or provision under this Agreement on its part to be performed. In consideration of Seller entering into this Agreement, Purchaser hereby waives and discharges Seller, its officers, agents, and employees from all claims for any and all such damages. Except in the event of a material breach by Seller, no breach, default, delay, or failure of Seller under this Agreement shall be or be construed to be a waiver, discharge, or release of Purchaser's obligation to pay the Purchase Price under Section 3 hereof. In the event of a breach of this Agreement by the Seller, Purchaser's sole and exclusive remedy shall be to terminate this Agreement. Such violations may be restrained, or such obligations enforced by injunction at the instance and request of Purchaser without the showing of any special damages or an inadequate remedy at law.

20. Counterparts. This Agreement may be executed in any number of 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.

21. 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.

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

24. The City's Request for Proposals for the sale of the Property and Purchaser's Proposal in se thereto are incorporated into this Agreement, as if set forth verbatim.

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APPENDIX 1

SPECIAL WARRANTY DEED PARCEL 1

THIS DEED, made this ____ day of _____, 2023, between the City of Pueblo, a Colorado municipal corporation, whose address is 1 City Hall Place, Pueblo, Colorado 81003 (hereinafter referred to as “Grantor”), and the Pueblo Urban Renewal Authority, a public body corporate and politic, whose address is 115 E. Riverwalk #410, Pueblo, Colorado 81003, (hereinafter referred to as “Grantee”):

WITNESSETH, that the Grantor, for and in consideration of the sum of Two Thousand Seven Hundred Twelve Dollars and Eighty-Nine Cents (U.S. \$2,712.89) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey, and confirm, unto the Grantee, its heirs, successors and assigns forever, all the real property, together with improvements, if any, described as:

Parcel: 431232004

Legal Description: Lot Six and Seven (6 and 7), Block Twenty (20), Mattices Subdivision

More generally known as unimproved land located at: 618 E. 2nd Street, Pueblo, Colorado 81001

for all purposes, together with all and singular the rights, benefits, privileges, easements, tenements, hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

Grantee shall use the real property and construct a single-family residential home for sale to buyers. Grantee must commence construction on the property within eighteen months from the _____, 2023, but in no event later than December 31, 2024. Grantor hereby intends to create a new special limitation and possibility of reverter, and Grantor intends the same to be in addition to any other special limitation and possibility of reverter and any other condition subsequent and right of entry which may be in existence. In the event Grantee fails (i) to pay all amounts due, (ii) to construct a single-family residential home for sale to buyers, or (iii) to commence construction on the real property within eighteen months from the _____, 2023, but in no event later than December 31, 2024, the real property shall automatically revert to Grantor at no additional cost and Grantee shall execute any and all documents needed to effectuate such reverter. The parties acknowledge and agree this possibility of reverter is for a public purpose.

This conveyance is of the surface estate only and no mineral rights are conveyed by this instrument.

This conveyance is made subject to and subordinate to all easements, reservations, restrictions, covenants, limitations, rights-of-way, and conditions of record.

EXHIBIT A

PERMITTED EXCEPTIONS

**SPECIAL WARRANTY DEED
PARCEL 2**

THIS DEED, made this ____ day of _____, 2023, between the City of Pueblo, a Colorado municipal corporation, whose address is 1 City Hall Place, Pueblo, Colorado 81003 (hereinafter referred to as “Grantor”), and the Pueblo Urban Renewal Authority, a public body corporate and politic, whose address is 115 E. Riverwalk #410, Pueblo, Colorado 81003, (hereinafter referred to as “Grantee”):

WITNESSETH, that the Grantor, for and in consideration of the sum of Eight Thousand One Hundred Thirty-Three Dollars and Thirty-Six Cents (U.S. \$8,133.36) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey, and confirm, unto the Grantee, its heirs, successors and assigns forever, all the real property, together with improvements, if any, described as:

Parcel: 431232005

Legal Description: Lot Eight and Nine (8 and 9), Block Twenty (20), Mattice’s Subdivision

More generally known as unimproved land located at: 612 E. 2nd Street, Pueblo, Colorado 81001

for all purposes, together with all and singular the rights, benefits, privileges, easements, tenements, hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

Grantee shall use the real property and construct a single-family residential home for sale to buyers. Grantee must commence construction on the property within eighteen months from the _____, 2023, but in no event later than December 31, 2024. Grantor hereby intends to create a new special limitation and possibility of reverter, and Grantor intends the same to be in addition to any other special limitation and possibility of reverter and any other condition subsequent and right of entry which may be in existence. In the event Grantee fails (i) to pay all amounts due, (ii) to construct a single-family residential home for sale to buyers, or (iii) to commence construction on the real property within eighteen months from the _____, 2023, but in no event later than December 31, 2024, the real property shall automatically revert to Grantor at no additional cost and Grantee shall execute any and all documents needed to effectuate such reverter. The parties acknowledge and agree this possibility of reverter is for a public purpose.

This conveyance is of the surface estate only and no mineral rights are conveyed by this instrument.

This conveyance is made subject to and subordinate to all easements, reservations, restrictions, covenants, limitations, rights-of-way, and conditions of record.

EXHIBIT A
PERMITTED EXCEPTIONS



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 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 LAND LOCATED EAST OF THE VILLAGE CIRCLE CUL-DE-SAC FROM O-1, NEIGHBORHOOD OFFICE DISTRICT TO R-4, MIXED RESIDENTIAL DISTRICT

SUMMARY:

The applicant is requesting to rezone 3.736-acres of land located east of the Village Circle cul-de-sac, from O-1, Neighborhood Office District to R-4, Mixed Residential District.

PREVIOUS COUNCIL ACTION:

The applicant is concurrently requesting to subdivide 4.64-acres into four multi-family residential lots (S-22-14) and is also requesting to create a Special Area Plan (SAP-23-01).

The City staff has submitted an ordinance for final reading on July 24, 2023 requesting to change the name of Sunflower Drive to Winecup Drive (SNC 23-01). This street will connect from Bluestem Boulevard within the University Park neighborhood to the proposed subdivision.

BACKGROUND:

The applicant is requesting to rezone the property to a R-4 Zone District to facilitate development of multifamily residential units on four large lots. The applicant is requesting to reduce the front and rear-yard setbacks through a Special Area Plan. The proposed front setback will be 20-feet instead of the required 25-feet. The proposed rear-yard setback will be five feet instead of the required 15-feet. Multifamily residential uses are permitted uses in the R-4 Mixed Residential District. Development standards within this zone district require residential structures containing three to five dwelling units to have a minimum of 1,500 square feet of lot area per dwelling unit. Residential structures with six or more dwelling units require 8,000 square feet of lot area or 1,000

square feet of lot area per dwelling unit, whichever is greater. Twenty percent of each lot must provide landscaped open space for the residents.

The area to be rezoned is designated as Suburban “Residential by the “Pueblo Regional Comprehensive Plan, 2022.” According to the Comprehensive Plan, Suburban Neighborhoods are predominantly single-family detached and attached homes on similarly sized lots and future development accommodates a similar mix of lot sizes and housing types. New neighborhoods should be designed with a mix of housing types and pedestrian and bicycle connectivity should be provided within and between neighborhoods. Supporting land uses can include accessory dwelling units, single-family attached homes, duplexes, and townhouses. The recommended density for Suburban Neighborhoods is two or five units per acre.

The proposed multifamily development with four multifamily residential lots provides a mixture of housing types as promoted by the Comprehensive Plan; however, the proposed 36 dwelling units equals a gross density of approximately 7.75 units per acre, which exceeds the maximum recommended density. Additionally, the proposed lots provide enough lot area, as required by the R-4 Zone District, to accommodate up to 112 residential units, resulting in 24-units per acre. The Special Area Plan sets a maximum of 86 residential units resulting in a possible gross density of 18.49 units per acre.

The property is included within the “Amended University Park Master Plan,” which was approved in January 1987. The plan indicates commercial uses to be developed to the west of the site; however, multifamily and duplex units were actually developed. The land use portion of the master plan does not state what uses are most appropriate for the subject property. On February 23, 1987 the subject property was rezoned to O-1. The staff findings indicated that the Pueblo Comprehensive Plan designated the area as “Urban Residential,” which provides areas of higher density residential. The staff report’s findings concluded that the rezoning was in compliance with the Comprehensive Plan. The O-1 rezoning was proposed to serve as a buffer between the commercial uses located south of the subject property and the single-family residences located in the University Park development north of the property. The office uses were never developed on subject property. The proposed multifamily residential uses would be an extension of the existing multifamily uses that are located west of the site. Parcel A containing a drainage and trail easement, in addition to the existing 225-foot-wide drainage easement located north of the subject site, provides a natural buffer between the proposed multifamily and single-family residential uses located north of the site, in the University Park neighborhood.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their June 14, 2023 Regular Meeting, voted 6-0 to recommend approval, Commissioner Martinez recused.

STAKEHOLDER PROCESS:

The Planning Department sent out Notice of the Planning and Zoning Commission Public Hearing to all property owners located within 300 feet of the subject property.

A Public Notice poster was placed on the subject property 15 days prior to the Public Hearing.

ALTERNATIVES:

Upon request of City Council, the Ordinance could be returned to the Planning and Zoning Commission for consideration of proposed modifications.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Z-22-20 Attachments

ORDINANCE NO. 10530

AN ORDINANCE AMENDING ZONING RESTRICTIONS TO
REZONE LAND LOCATED EAST OF THE VILLAGE CIRCLE
CUL-DE-SAC FROM O-1, NEIGHBORHOOD OFFICE DISTRICT
TO R-4, MIXED RESIDENTIAL 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 O-1, Neighborhood Office District to R-4, Mixed Residential District:

BEGINNING at the northwest corner of said Lot 20, thence N70°47'17"E, along the north line of said Lot 20, (Basis of bearings is the southeastern line of the property, monumented on the northeast by No. 5 rebar with a yellow plastic cap, stamped "PLS 6128", flush with grade and on the southwest by No. 5 rebar with a yellow plastic cap, stamped "PLS 6128", 0.2 feet above grade, measured to bear S38°50'09"W, a distance of 883.61 feet), a distance of 94.78 feet, to the northeast corner of said Lot 20; thence N10°16'44"W, along the easterly boundary line of the University Park Subdivision, Filing Number 4, recorded June 10, 1977 as Reception Number 545590 in the records of said Clerk and Recorder, a distance of 60.85 feet, to the southeast corner of Parcel E as described in that Warranty Deed recorded September 6, 1995 as Reception Number 1092326 in the records of said Clerk and Recorder; thence along the south line of said Parcel E, N87°22'43"E, a distance of 485.83 feet, to a point on the northwesterly line of that parcel described as South Parcel in that Quit Claim Deed recorded June 8, 1994 as Reception Number 1047102 in the records of said Clerk and Recorder; thence S38°50'09"W, along said northwesterly line a distance of 883.61 feet, to the westerly corner of said South Parcel; thence N07°30'28"E, along the east boundary line of said University Park Subdivision, Filing Number 17, a distance of 482.31 feet, to the southeast corner of said Lot 20; thence S70°54'51"W, along the south line of said Lot 20, a distance of 36.97 feet, to the southwest corner of said Lot 20; thence N19°12'46"W, along the west line of said Lot 20, a distance of 115.31 feet, to the **POINT OF BEGINNING**.

Containing 162,729 Sq. Ft. or 3.736 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 July 24, 2023.

Final adoption of Ordinance by City Council on August 14, 2023.



President of City Council

Action by the Mayor:

☒ Approved on August 17, 2023.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

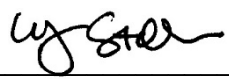
☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

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

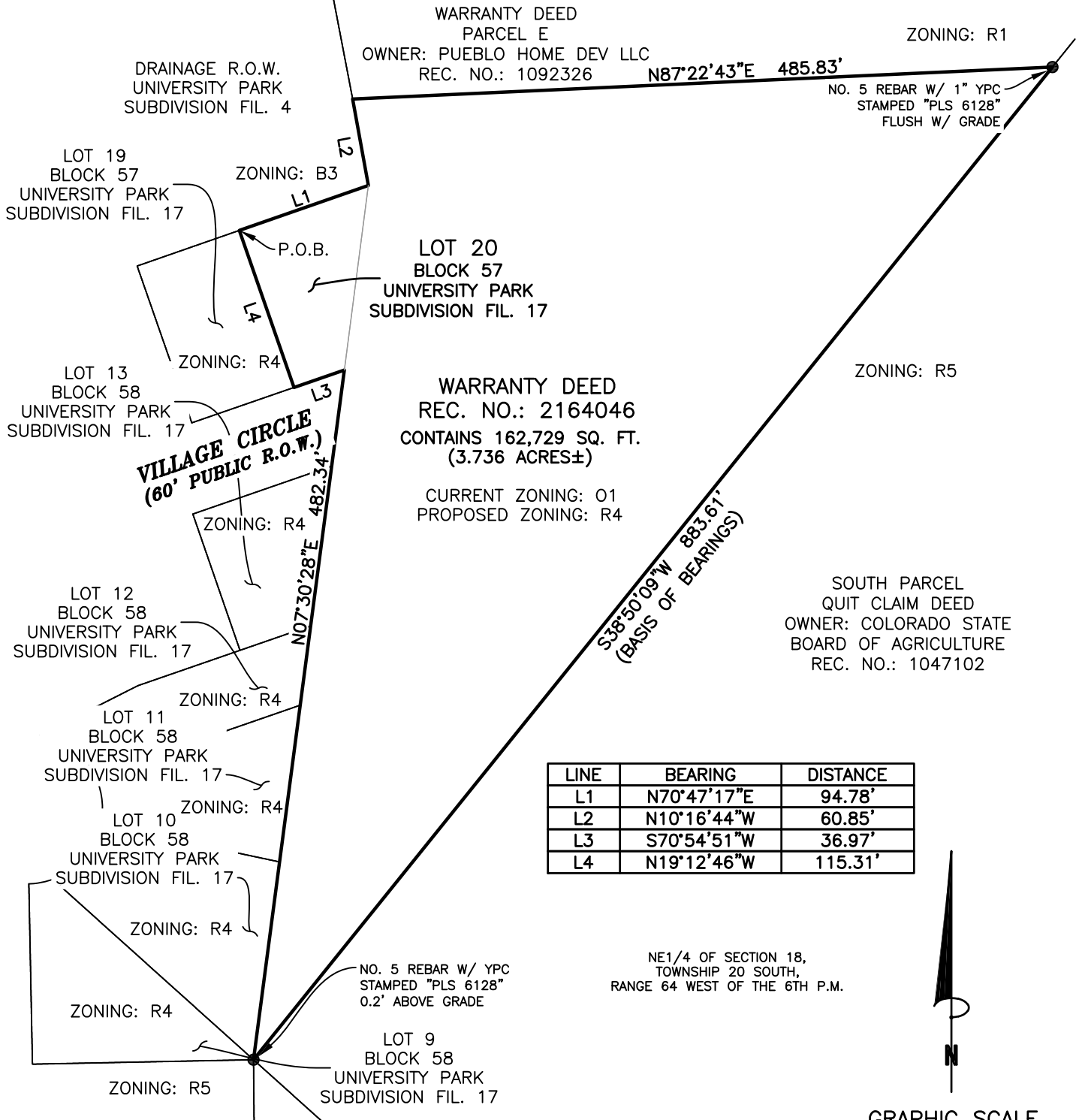
President of City Council

ATTEST



City Clerk

EXHIBIT B ZONING MAP AMENDMENT



NOTE:
This EXHIBIT does not
represent a monumented
land survey, and is only
intended to depict the
attached LEGAL DESCRIPTION.

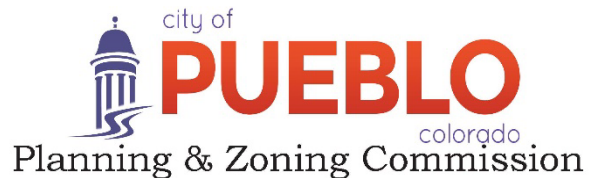
Project No: 200975	Drawn: EJC Check: SLM	Date: 10/21/2020 Sheet 2 of 2
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-Clark-
Land Surveying, Inc.
177 S. Tiffany Dr., Unit 1 • Pueblo West, CO 81007 • 719.582.1270
www.clarkls.com

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, June 14, 2023 – 3:30 p.m.

City Council Chambers, 1 City Hall Place

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

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

Commissioners Absent: None

Staff Members Present: Trevor Gloss, Assistant City Attorney, Beritt Odom, Principal Planner; Bart Mikitowicz, Senior Planner, and Cindy Capritta, Land Use Technician.

Staff Members Absent: Scott Hobson, Acting Director for Development of Planning and Community Development

APPROVAL OF THE AGENDA: Bailey moved to approve the May 10, 2023, agenda, seconded by, Avalos.

Motion Passed: 7-0

REGULAR AGENDA:

Public Hearing:

4. Z-22-20 Rezone: Rezone approximately 3.74 acres from 0-1, Neighborhood Office District to R-4, Mixed Residential District, located east of the Village Circle terminus. Staff report by Beritt Odom, Principal Planner.

Public Hearing: Applicant, John Chrisman was sworn in and spoke in favor of the application. Speaking in opposition and sworn in were Shawn Morgan, Cindy Gradishar and Kelsey Herman.

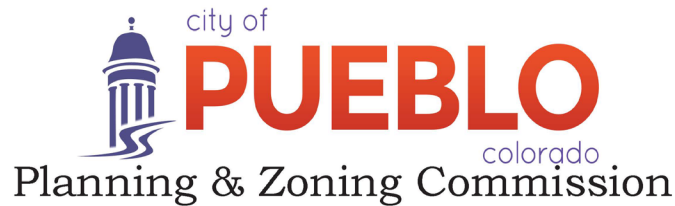
Commission Action: Bailey moved to recommend the application contingent on passage of items 5 and 6, seconded by Spinuzzi.

Motion Passed: 6-0, Martinez recused

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative



Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

Z-22-20

TO: City of Pueblo, Planning and Zoning Commission

FROM: Beritt Odom, Principal Planner

THROUGH: Scott Hobson, Acting Director of Planning and Community Development

DATE: June 14, 2023

SUBJECT: Rezone from O-1, Neighborhood Office District, to R-4, Mixed Residential District.

APPLICANT: John Chrisman, Chrisman Engineering

PROPERTY OWNER: Tom Black, UPARK APT, LLC

LOCATION: 3.736 acres generally located east of the Village Cir. terminus.

CONCURRENT REQUESTS: S-22-14, DFB Subdivision, A Special Area Plan
SAP-23-01, DFB Subdivision, A Special Area Plan

REQUEST:

The applicant is requesting to rezone 3.736-acres of land located east of the Village Circle cul-de-sac, from O-1, Neighborhood Office District to R-4, Mixed Residential District.

BACKGROUND AND ANALYSIS:

The applicant is requesting to rezone to a R-4 Zone District to facilitate development of multifamily residential units on four large lots. The applicant is requesting to reduce the front and rear-yard setbacks through a Special Area Plan. The proposed front setback will be 20-feet instead of the required 25-feet. The proposed rear-yard setback will be five feet instead of the required 15-feet.

Multifamily residential uses are permitted uses in the R-4 Mixed Residential District. Dwelling unit structures that contain three to five dwelling units require a minimum of 1,500 square feet of lot area per dwelling unit. Residential structures with six or more dwelling units require 8,000 square feet of lot area or 1,000 square feet of lot area per dwelling unit, whichever is greater. Twenty percent of each lot must provide landscaped open space for the residents.

The proposed subdivision includes four large lots: Lot 1-17,607 sq. ft.; Lot 2-17,075 sq. ft.; Lot 3-28,269 sq. ft.; and Lot 4-49,819 sq. ft., collectively totaling 112,770 sq. ft. within an overall net site development area of 129,373.2 sq. ft. (2.97 acres).

The Special Area Plan contains a proposed total of 36 dwelling units on the four lots. Based on the R-4 zone district requirement of 1,500 sq. ft. of lot area per dwelling unit for buildings with 3-5 dwelling units, the four lots could be developed with a maximum of 86 dwelling units. The proposed 36 dwelling units is 50 dwelling units fewer than the land area could potentially support with buildings containing three to five dwelling units.

LAND USE AND PLANNING COMMENTS
CHARACTER AND COMPATIBILITY

Site Character: The site is currently unimproved prairie grasses with a 10-foot concrete trail that runs, east and west, the length of the northern portion of the subdivision. The 10-foot concrete trail also runs north and south through the eastern portion of the subdivision and adjacent to the proposed Winecup Drive.

Neighborhood Compatibility:	North	R-1, Single-Family Residential, undeveloped
	East	R-5, Mixed Residential and Office District, undeveloped
	South	R-5, Mixed Residential and Office District, undeveloped
	West	R-4, Mixed Residential District, developed with four-plex and duplex residential structures

Comprehensive Plan: The area to be rezoned is designated as Suburban “Residential by the “Pueblo Regional Comprehensive Plan, 2022.” According to the Comprehensive Plan, Suburban Neighborhoods are predominantly single-family detached and attached homes on similarly sized lots and future development accommodates a similar mix of lot sizes and housing types. New neighborhoods should be designed with a mix of housing types and pedestrian and bicycle connectivity should be provided within and between neighborhoods. The recommended density for Suburban Neighborhoods is two or five units per acre.

The proposed multifamily development with four multifamily residential lots provides a mixture of housing types as promoted by the Comprehensive Plan; however, the proposed 36 dwelling units equals a gross density of approximately 7.75 units per acre, which exceeds the maximum recommended density. Additionally, the proposed lots provide enough lot area, as required by the R-4 Zone District, to accommodate up to 112 residential units, resulting in 24-units per acre. The Special Area Plan sets a maximum of 86 residential units resulting in a possible gross density of 18.49 units per acre.

The development site is in the “Amended University Park Master Plan,” which was approved in January 1987. The plan indicates commercial uses to be developed to the west of the site; however, multifamily and duplex units were actually developed. The land use portion of the master plan does not state what uses are most appropriate for the subject property. On

February 23, 1987 the subject property was rezoned to O-1. The staff findings indicated that the Pueblo Comprehensive Plan designated the area as “Urban Residential,” which provides areas of higher density residential. The staff report’s findings concluded that the rezoning was in compliance with the Comprehensive Plan. The O-1 rezoning was proposed to serve as a buffer between the commercial uses located south of the subject property and the single-family residences located in the University Park development north of the property. The office uses were never developed on subject property. The proposed multifamily residential uses would be an extension of the existing multifamily uses that are located west of the site. Parcel A containing a drainage and trail easement, in addition to the existing 225-foot-wide drainage easement located north of the subject site, provides a natural buffer between the proposed multifamily and single-family residential uses located north of the site, in the University Park neighborhood. The master planning of this site has been amended multiple times and it appears that the approved development in the area has not strictly followed the approved master plan nor the Pueblo Regional Comprehensive Plan.

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

- ☐ Comments The rezoning and future development of multifamily housing furthers the Regional Comprehensive Plan Goal of providing a mixture of housing types and attainable housing. According to the plan, rising housing costs and a constrained housing supply have made it increasingly difficult for many people to find housing that meets their needs at a price they can afford.

2) Show that the area has changed significantly since the adoption of the comprehensive land use plan

- ☐ Comments Not Applicable

3) Show that there was a mistake or error made in the original zoning of the property.

- ☐ Comments Not Applicable

APPLICATION REQUIREMENT PER §17-6-1 OF THE PUEBLO MUNICIPAL CODE

The applicant's name and address and the name and address of any person, firm or corporation represented by such applicant in the application

- ☐ 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 According to the applicant, “the existing properties along Village Circle to the west of the property are duplex and four-plex residences. The rezoning would allow further multi-family development in the area, as opposed to neighborhood office uses. The proposed use is consistent with the surrounding area and would not adversely impact the neighboring properties.

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 According to the applicant, “the proposed subdivision of the property would create 5 multi-family lots (revised to only include 4 lots) that would include off-street parking, landscaping and common areas for the building tenants. The construction would be similar to the four-plex units that are currently locate to the west along Village Circle.”

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 was not provided. The extension of Village Circle and Winecup Drive will provide access and circulation within the development site.

A statement of the proposed time schedule for beginning and completion of development.

- Comments The application states project construction will start in 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 According to the application, “the owner has been developing residential and commercial properties in Pueblo for over 35 years and has an established track record for completing attractive projects in a timely manner. The local rental market is thriving and with proximity to Colorado State University-Pueblo, faculty and students are the primary tenants.”

RECOMMENDED ACTION:

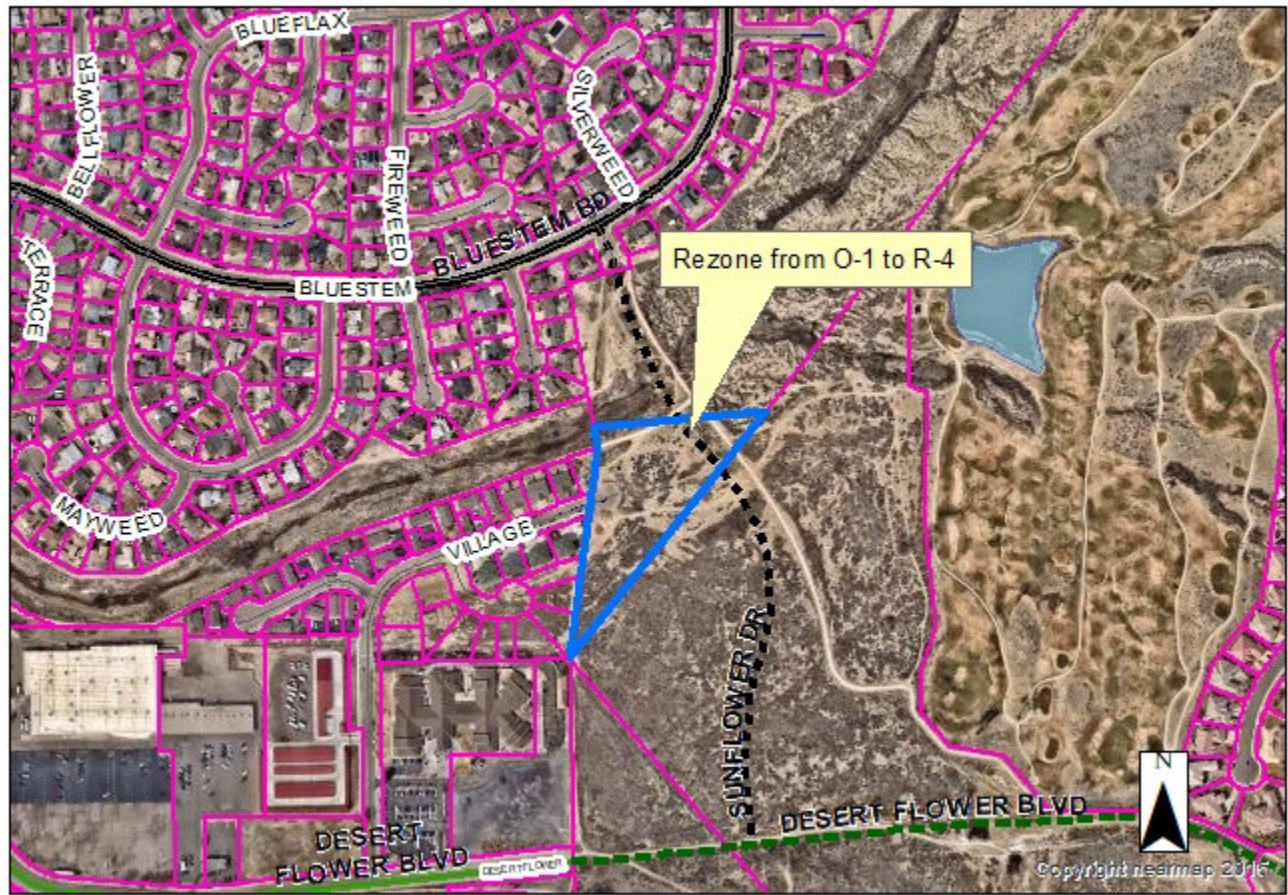
If the Planning and Zoning Commission finds the rezoning request furthers the goals and objectives of the Comprehensive Plan, a recommendation of approval to City Council is appropriate.

REFERRAL AGENCIES AND COMMENTS:

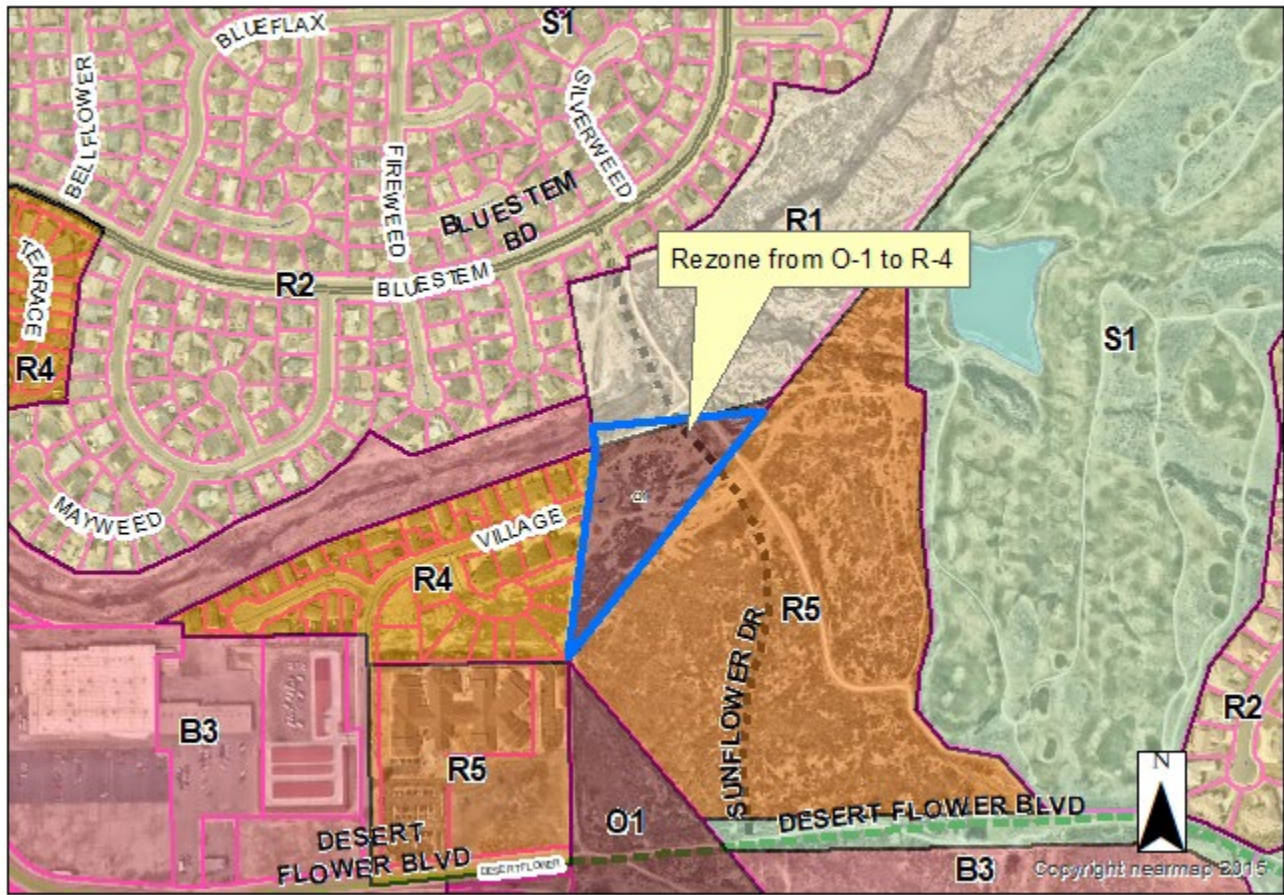
- City Public Works-No comment
- City Transportation-No comment
- City Law Department-No comment
- Pueblo Regional Building Department-No comment
- City Fire Department-No comment
- City Wastewater-No comment
- City Stormwater-No comment
- City Parks and Recreation Department-No comment
- Xcel Energy-No comment
- Black Hills Energy-No comment
- CDOT-No comment

ATTACHMENTS:

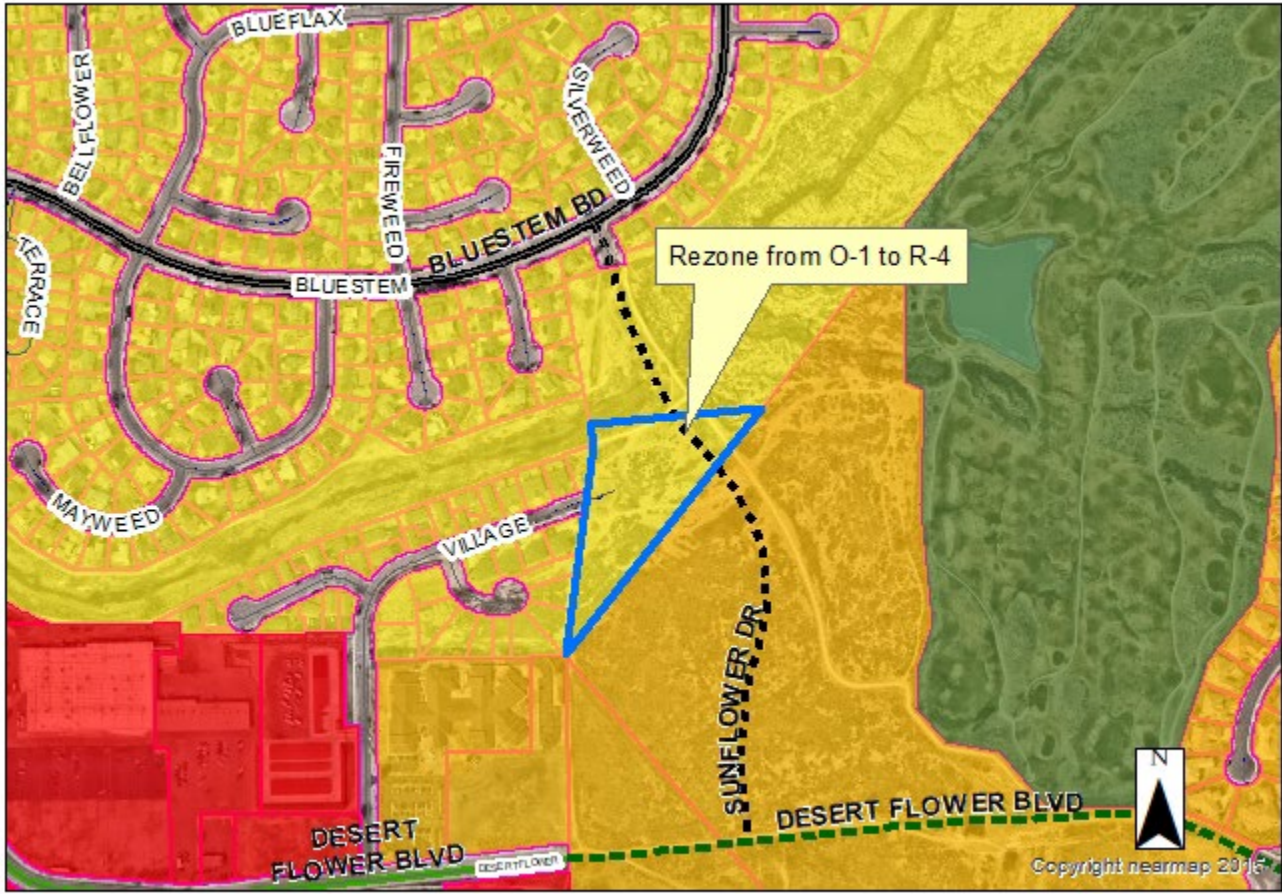
- A. Aerial Photograph**
- B. Zoning Map**
- C. Comprehensive Plan Map**
- D. Site Photographs**
- E. Zoning Exhibit**



A. Aerial Photograph



B. Zoning



C. Comprehensive Plan



D. Site Photo, Public Notice



View looking north from Village Cir. cul-de-sac



View of the subdivision site looking south from the Village Cir. cul-de-sac.

Planning & Zoning Map Amendment Application (Rezoning)

Please type or print clearly. Illegible applications will not be accepted. Case #: _____

Property Owner	
Name: TOM BLACK	
Company: LE MOUTON NOIR, LLC UPARK APT, LLC	
Address: 925 W. KENYON AVENUE, STE 2, ENGLEWOOD, CO	Zip: 80110
Phone: () (719) 544-2732	Email: tom@feketehomes.com
Applicant	
Name: SAME AS OWNER	
Company:	
Address:	Zip:
Phone: ()	Email:
Person or Firm Representing (If Different From) Owner or Applicant	
Name: JOHN D. CHRISMAN, P.E.	
Company: CHRISMAN ENGINEERING, INC.	
Address: P.O. BOX 8564	Zip: 81008
Phone: () (719) 924-0012	Email: john@chrismanengineering.com
<i>The applicant will be the primary contact unless otherwise noted.</i>	
Project Location: East end of Village Circle, north of Desert Flower Boulevard (address or general description)	
Parcel# 418100008	
Legal Description: see attached	
Subdivision: pending - D F B Subdivision	Acreage: 3.74
Existing Zone District: O-1	Proposed Zone District: R-4

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.

The existing properties along Village Circle to the west of the property are duplex and four-plex residences. The rezoning would allow further multi-family development in the area, as opposed to neighbor office uses. The proposed use is consistent with the surrounding area would not adversely impact the neighboring properties.

Description of area surrounding proposed development:

The property to the west (R-4) consists of duplex and four-plex residential units, the property to the southwest (R-5) is a nursing home, the properties to the south, east and north are currently undeveloped and are zoned O-1, R-5 and R-1.

A general description of the proposed development to the distance which will be affected; such description including subjects of environmental effect, economic effect and traffic effect, if any; and such description carried out in scope and detail to the extent needed to support the requested amendment and as may be required by the Planning and Zoning Commission.

The proposed subdivision of the property would create 5 multi-family lots that would include off-street parking, landscaping and common areas for the building tenants. The construction would be similar to the four-plex units that are currently located to the west along Village Circle.

- ☐ 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: The dwelling units would be constructed in phases over the next several years

A statement reasonably indicating the applicant's economic responsibility and capability of accomplishing the development for which a zoning amendment is requested.

The owner has been developing residential and commercial properties in Pueblo for over 35 years and has an established track record for completing attractive projects in a timely manner. The local rental market is thriving and with proximity to Colorado State University - Pueblo, faculty and students are the primary tenants.

- ☐ 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:

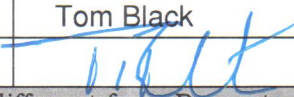
1. Authorized personnel from the City of Pueblo, are hereby granted the right to enter the subject property for the purposes of reviewing and processing the application, including Certificate of Occupancy Inspections.

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:	☐ Approved ☐ Denied ☐ 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:	Tom Black	
Signature:		Date: November 7, 2022

Applicant, if different from Property Owner

Print Name:	SAME	
Signature:		Date:

EXHIBIT A
ZONING MAP AMENDMENT

October 21, 2020

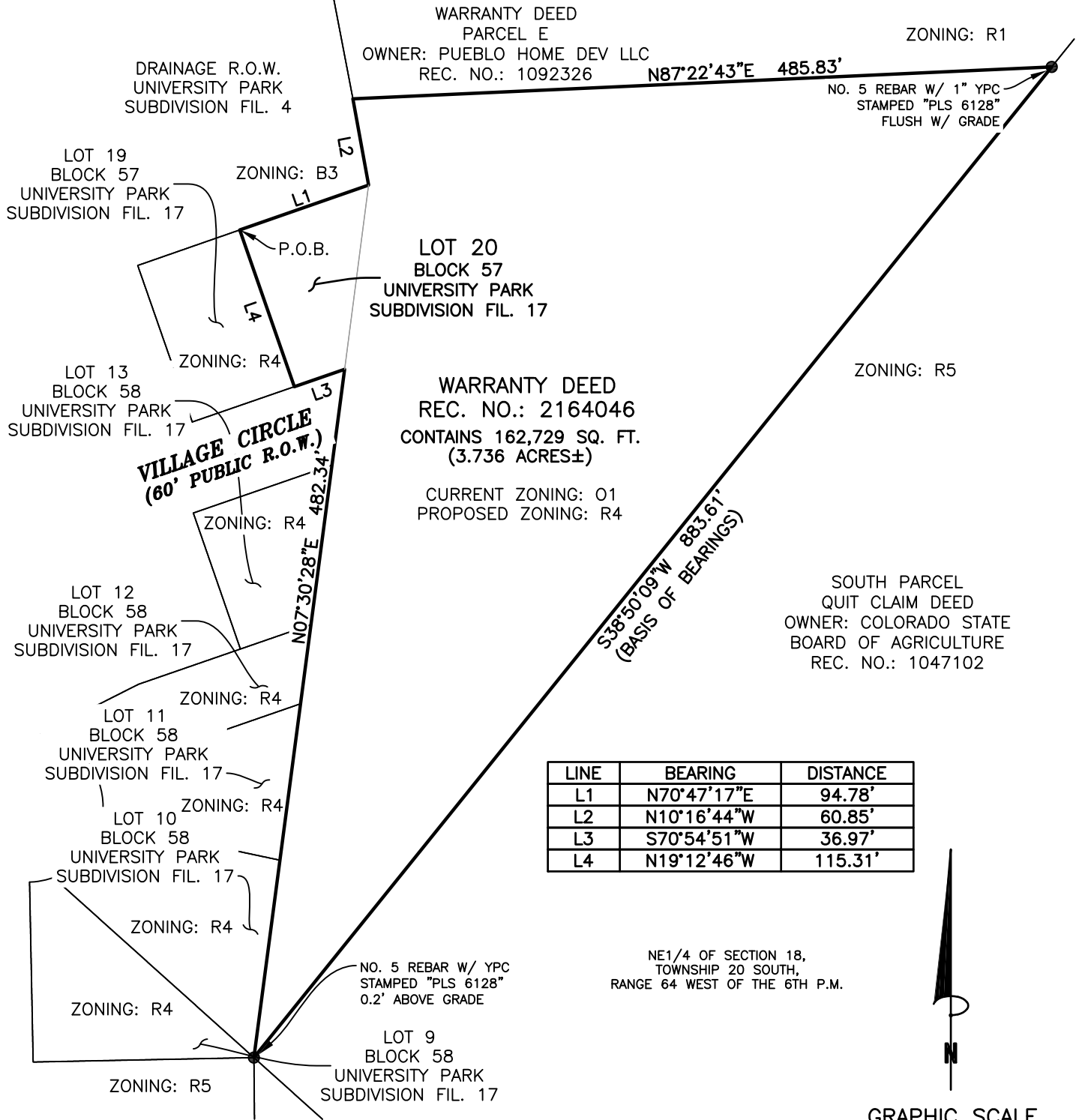
The parcel described in that Warranty Deed, recorded December 26, 2019 as Reception Number 2164046, along with Lot 20, Block 57, University Park Subdivision, Filing Number 17, recorded May 10, 1988 as Reception Number 888926, both in the records of the Pueblo County Clerk and Recorder, Colorado, lying in the Northeast 1/4 of Section 18, Township 20 South, Range 64 West of the Sixth Principle Meridian, being more particularly described as follows:

BEGINNING at the northwest corner of said Lot 20, thence N70°47'17"E, along the north line of said Lot 20, (Basis of bearings is the southeastern line of the property, monumented on the northeast by No. 5 rebar with a yellow plastic cap, stamped "PLS 6128", flush with grade and on the southwest by No. 5 rebar with a yellow plastic cap, stamped "PLS 6128", 0.2 feet above grade, measured to bear S38°50'09"W, a distance of 883.61 feet), a distance of 94.78 feet, to the northeast corner of said Lot 20; thence N10°16'44"W, along the easterly boundary line of the University Park Subdivision, Filing Number 4, recorded June 10, 1977 as Reception Number 545590 in the records of said Clerk and Recorder, a distance of 60.85 feet, to the southeast corner of Parcel E as described in that Warranty Deed recorded September 6, 1995 as Reception Number 1092326 in the records of said Clerk and Recorder; thence along the south line of said Parcel E, N87°22'43"E, a distance of 485.83 feet, to a point on the northwesterly line of that parcel described as South Parcel in that Quit Claim Deed recorded June 8, 1994 as Reception Number 1047102 in the records of said Clerk and Recorder; thence S38°50'09"W, along said northwesterly line a distance of 883.61 feet, to the westerly corner of said South Parcel; thence N07°30'28"E, along the east boundary line of said University Park Subdivision, Filing Number 17, a distance of 482.31 feet, to the southeast corner of said Lot 20; thence S70°54'51"W, along the south line of said Lot 20, a distance of 36.97 feet, to the southwest corner of said Lot 20; thence N19°12'46"W, along the west line of said Lot 20, a distance of 115.31 feet, to the **POINT OF BEGINNING**.

Containing 162,729 Sq. Ft. or 3.736 acres, more or less.

Stewart L. Mapes, Jr.
Colorado Professional Land Surveyor No. 38245
For and on behalf of Clark Land Surveying, Inc.

EXHIBIT B ZONING MAP AMENDMENT



NOTE:
This EXHIBIT does not
represent a monumented
land survey, and is only
intended to depict the
attached LEGAL DESCRIPTION.

Project No: 200975	Drawn: EJC Check: SLM	Date: 10/21/2020 Sheet 2 of 2
-----------------------	--------------------------	----------------------------------

-Clark-
Land Surveying, Inc.
177 S. Tiffany Dr., Unit 1 • Pueblo West, CO 81007 • 719.582.1270
www.clarkls.com

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **John Chrisman, for Le Mouton Noir LLC** for approval of the following application(s):

Z-22-20 Rezoning: Rezone approximately 3.74 acres from O-1, Neighborhood Office District to R-4, Mixed Residential District. Generally located east of the Village Cir. Terminus.
S-22-14 Subdivision and SAP-23-01: DFB Subdivision, subdivision of 3.736 acres into five multifamily residential lots. Generally located east of the Village Cir. Terminus.

The Planning and Zoning Commission meeting will be held on June 14, 2023, at 3:30 p.m., in City Council Chambers, 1 City Hall Place, Pueblo, CO or by Zoom: <https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGbnlCdHRrUHNFZnpPWGIYdz09>, Meeting ID: 927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston). You are welcome to attend this public hearing and express your viewpoint concerning this proposal. To review the plans and staff report for the proposed application, please visit www.pueblo.us/PandZ and click on “Most Recent Agenda” no sooner than the Friday prior to the hearing. **Please contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **John Chrisman, for Le Mouton Noir LLC** for approval of the following application(s):

Z-22-20 Rezoning: Rezone approximately 3.74 acres from O-1, Neighborhood Office District to R-4, Mixed Residential District. Generally located east of the Village Cir. Terminus.
S-22-14 Subdivision and SAP-23-01: DFB Subdivision, subdivision of 3.736 acres into five multifamily residential lots. Generally located east of the Village Cir. Terminus.

The Planning and Zoning Commission meeting will be held on June 14, 2023, at 3:30 p.m., in City Council Chambers, 1 City Hall Place, Pueblo, CO or by Zoom: <https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGbnlCdHRrUHNFZnpPWGIYdz09>, Meeting ID: 927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston). You are welcome to attend this public hearing and express your viewpoint concerning this proposal. To review the plans and staff report for the proposed application, please visit www.pueblo.us/PandZ and click on “Most Recent Agenda” no sooner than the Friday prior to the hearing. **Please contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **John Chrisman, for Le Mouton Noir LLC** for approval of the following application(s):

Z-22-20 Rezoning: Rezone approximately 3.74 acres from O-1, Neighborhood Office District to R-4, Mixed Residential District. Generally located east of the Village Cir. Terminus.
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Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

CASE NUMBER Z-22-20

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 East end of Village Circle, north of Desert Flower Boulevard 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.

May 30, 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.

May 30, 2023

(Date)

PUEBLO PLANNING & ZONING COMMISSION

By Cindy Caputo

Owner	OwnerStree	OwnerCity	Own
UPARK APT LLC	1307 FORTINO BLVD STE D	PUEBLO	CO
FEKETE HOMES INC	1307 FORTINO BLVD STE D	PUEBLO	CO
WALKING STICK 5 LLC	14185 W 7TH AVE	GOLDEN	CO
PUEBLO HOME DEV CO LLC + C/O BARBAR	1825 N GRAND AVE	PUEBLO	CO
COLORADO STATE BOARD OF AG + ATTN:	2200 BONFORTE BLVD	PUEBLO	CO
JAGD SUSAN M + JAGD ALLAN R	3 WOODSORREL CT	PUEBLO	CO
PUEBLO MEDICAL INVESTORS LTD + C/O L	3001 KEITH ST NW	CLEVELAND	TN
UNIVERSITY PARK REAL ESTATE + INVESTC	3001 KEITH ST NW	CLEVELAND	TN
PRESS PROPERTIES LLC + C/O MARK SWAN	345 STEELE ST	DENVER	CO
GOLDEN RULE PROPERTIES	36038 SOUTH RD	PUEBLO	CO
MORGAN SHAWN M/CRUZ PAULETTE F	4 WOODSORREL CT	PUEBLO	CO
ATKINSON TRACY	4429 PORTA FINA DR	PUEBLO	CO
COZZOLINO KEVIN P/COZZOLINO DEANN	5 WOODSORREL CT	PUEBLO	CO
GRADISHAR CINDY ANN	6 WOODSORREL CT	PUEBLO	CO
HAASE BRUCE JR	7 FIREWEED CT	PUEBLO	CO
CHOSICH MICHAEL/CHOSICH GRETA SUE	7 WOODSORREL CT	PUEBLO	CO
BURGESS RICHARD JOHN / SPINUZZI P	8 FIREWOOD CT	PUEBLO	CO
ZINANTI MARK M/ZINANTI JEHAN L	8 WOODSORREL CT	PUEBLO	CO
UNIVERSITY VILLAGE PARTNERSHIP	814 VILLAGE CT APT A	PUEBLO	CO
UPARK APT, LLC	925 W KENYON AVE STE 2	ENGLEWOOD	CO
BUSTOS ROBERT B /ORTIZ BUSTOS LOR	941 VILLAGE CIR APT A	PUEBLO	CO

OwnerZip

81008-2032
81008-2032
80401-4508
81003-2634
81001-4901
81001-1120
37312-3713
37312-3713
80206-4414
81006-9343
81001-1120
81001-1096
81001-1120
81001-1120
81001-1111
81001-1120
81001
81001-1120
81001-5117
80110-3471
81001-1183



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 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 APPROVING A SPECIAL AREA PLAN FOR THE DFB SUBDIVISION

SUMMARY:

The applicant is requesting approval of a Special Area Plan for the DFB Subdivision, which subdivides 4.64-acres into four multifamily residential lots, a trail utility, drainage, and access parcel, a non-buildable parcel, and a reduction in front and rear-yard setbacks.

PREVIOUS COUNCIL ACTION:

The applicant is concurrently requesting to rezone 3.736-acres of land located east of the Village Circle cul-de-sac from O-1 to R-4 (Z-22-20) and is also requesting to subdivide 4.64-acres into four multifamily residential lots (S-22-14).

The City staff has submitted an Ordinance for final reading on July 24, 2023 requesting to change the name of Sunflower Drive to Winecup Drive (SNC 23-01). This street will connect from Bluestem Boulevard within the University Park neighborhood to the proposed subdivision.

BACKGROUND:

The DFB Subdivision, A Special Area Plan, is a proposed 4.64-acre multifamily residential subdivision located east of the Village Circle terminus. The land is unimproved and not previously subdivided. The applicant is requesting to subdivide the land into four large lots to facilitate development of multifamily residential structures. The applicant is requesting to reduce the front and rear-yard setbacks through a Special Area Plan. The proposed front setback will be 20-feet instead of the required 25-feet. The proposed rear-yard setback will be five feet instead of the required 15-feet. Multifamily residential uses are permitted uses in the R-4 Mixed Residential District. Development standards within this zone district require residential structures containing three to five dwelling

units to have a minimum of 1,500 square feet of lot area per dwelling unit.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their June 14, 2023 Regular Meeting, voted 5-1 to recommend approval, Commissioner Martinez recused.

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, a Special Area Plan will not be created.

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. SAP-23-01 Attachments

ORDINANCE NO. 10531

AN ORDINANCE APPROVING A SPECIAL AREA PLAN FOR
THE DFB SUBDIVISION

WHEREAS, a request for a Special Area Plan for DFB Subdivision, A Special Area Plan, has been submitted to the Planning and Zoning Commission for approval pursuant to Section 17-4-29 of the Pueblo Municipal Code, and,

WHEREAS, the Planning and Zoning Commission after a public hearing found and determined the objectives and requirements of said Section 17-4-29 can and will be met, and,

WHEREAS, the Planning and Zoning Commission has recommended the approval of the Special Area Plan for DFB Subdivision, A Special Area Plan, NOW, THEREFORE,

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

SECTION 1.

The Special Area Plan for:

BEGINNING at the northwest corner of said Lot 20, thence N70°47'17"E, along the north line of said Lot 20, (Basis of bearings is the southeastern line of the property, monumented on the northeast by No. 5 rebar with a yellow plastic cap, stamped "PLS 6128", flush with grade and on the southwest by No. 5 rebar with a yellow plastic cap, stamped "PLS 6128", 0.2 feet above grade, measured to bear S38°50'09"W, a distance of 883.61 feet), a distance of 94.78 feet, to the northeast corner of said Lot 20; thence N10°16'44"W, along the easterly boundary line of the University Park Subdivision, Filing Number 4, recorded June 10, 1977 as Reception Number 545590 in the records of said Clerk and Recorder, a distance of 60.85 feet, to the southeast corner of Parcel E as described in that Warranty Deed recorded September 6, 1995 as Reception Number 1092326 in the records of said Clerk and Recorder; thence along the south line of said Parcel E, N87°22'43"E, a distance of 485.83 feet, to a point on the northwesterly line of that parcel described as South Parcel in that Quit Claim Deed recorded June 8, 1994 as Reception Number 1047102 in the records of said Clerk and Recorder; thence S38°50'09"W, along said northwesterly line a distance of 883.61 feet, to the westerly corner of said South Parcel; thence N07°30'28"E, along the east boundary line of said University Park Subdivision, Filing Number 17, a distance of 482.31 feet, to the southeast corner of said Lot 20; thence S70°54'51"W, along the south line of said Lot 20, a distance of 36.97 feet, to the southwest corner of said Lot 20; thence N19°12'46"W, along the west line of said Lot 20, a distance of 115.31 feet, to the **POINT OF BEGINNING**.

Containing 162,729 Sq. Ft. or 3.736 acres, more or less.

attached hereto, is hereby approved.

SECTION 2.

The DFB Subdivision, A Special Area Plan is approved without conditions.

SECTION 3.

This Ordinance shall become effective immediately upon final passage and approval.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on July 24, 2023.

Final adoption of Ordinance by City Council on August 14, 2023.



President of City Council

Action by the Mayor:

☒ Approved on August 17, 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

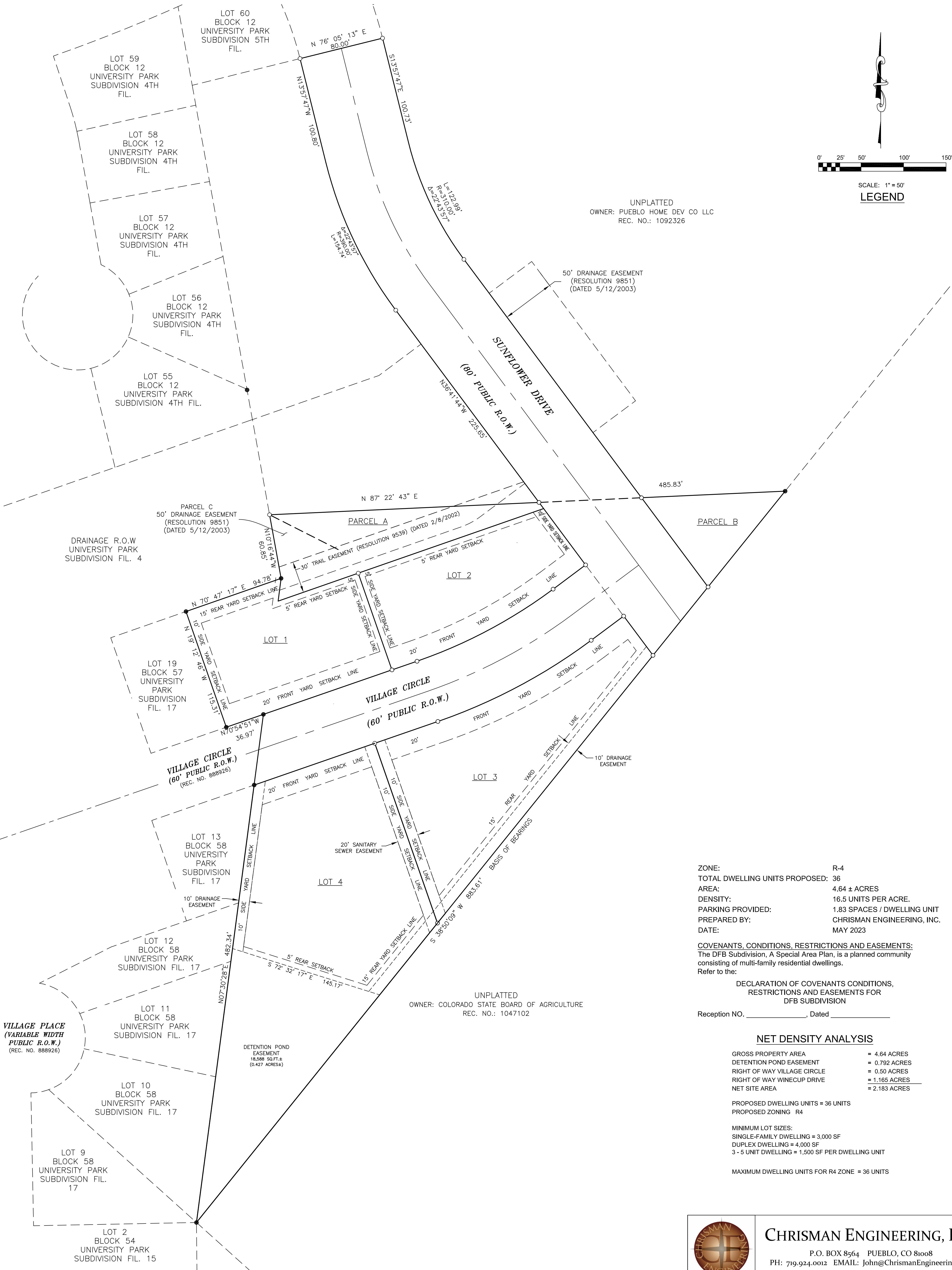


City Clerk

DFB SUBDIVISION

A SPECIAL AREA PLAN

A RE-SUBDIVISION OF LOT 20, BLOCK 57, UNIVERSITY PARK SUBDIVISION,
THE PARCEL AS DESCRIBED IN WARRANTY DEED RECORDED UNDER REC. NO. 2164046,
AND A PORTION OF THE PARCEL AS DESCRIBED IN SPECIAL WARRANTY DEED RECORDED UNDER REC. NO. 1092326,
LYING WITHIN THE NE 1/4 OF SECTION 18, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M.
CITY AND COUNTY OF PUEBLO, STATE OF COLORADO



ZONE:	R-4
TOTAL DWELLING UNITS PROPOSED:	36
AREA:	4.64 ± ACRES
DENSITY:	16.5 UNITS PER ACRE.
PARKING PROVIDED:	1.83 SPACES / DWELLING UNIT
PREPARED BY:	CHRISMAN ENGINEERING, INC.
DATE:	MAY 2023

COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS:
The DFB Subdivision, A Special Area Plan, is a planned community
consisting of multi-family residential dwellings.
Refer to the:

DECLARATION OF COVENANTS CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR
DFB SUBDIVISION
Reception NO. _____, Dated _____

NET DENSITY ANALYSIS

GROSS PROPERTY AREA	= 4.64 ACRES
DETENTION POND EASEMENT	= 0.792 ACRES
RIGHT OF WAY VILLAGE CIRCLE	= 0.50 ACRES
RIGHT OF WAY WINECUP DRIVE	= 1.165 ACRES
NET SITE AREA	= 2.183 ACRES

PROPOSED DWELLING UNITS = 36 UNITS
PROPOSED ZONING R4

MINIMUM LOT SIZES:
SINGLE-FAMILY DWELLING = 3,000 SF
DUPLEX DWELLING = 4,000 SF
3 - 5 UNIT DWELLING = 1,500 SF PER DWELLING UNIT

MAXIMUM DWELLING UNITS FOR R4 ZONE = 36 UNITS



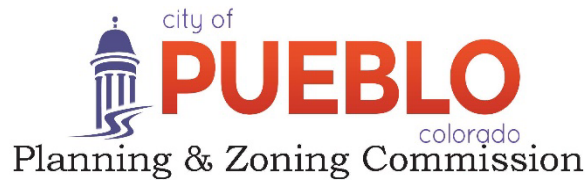
CHRISMAN ENGINEERING, INC.

P.O. BOX 8564 PUEBLO, CO 81008
PH: 719.924.0012 EMAIL: John@ChrismanEngineering.com

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, June 14, 2023 – 3:30 p.m.

City Council Chambers, 1 City Hall Place

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

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

Commissioners Absent: None

Staff Members Present: Trevor Gloss, Assistant City Attorney, Beritt Odom, Principal Planner; Bart Mikitowicz, Senior Planner, and Cindy Capritta, Land Use Technician.

Staff Members Absent: Scott Hobson, Acting Director for Development of Planning and Community Development

APPROVAL OF THE AGENDA: Bailey moved to approve the May 10, 2023, agenda, seconded by, Avalos.

Motion Passed: 7-0

REGULAR AGENDA:

Public Hearing:

6. SAP 23-01 Special Area Plan: DFB Subdivision, A Special Area Plan, allowing reduced front yard setbacks adjacent to Village Circle and increasing side-yard setbacks Lots 4 and 5 to 10-feet between. Generally located east of the Village Circle terminus. Staff report by Beritt Odom, Principal Planner.

Public Hearing: Applicant, John Chrisman spoke in favor of the application. Speaking in opposition were Cindy Gradishar and Shawn Morgan.

Commission Action: Bailey moved to recommend the application with the condition that a maximum of 36 units are allowed to be developed within the subdivision, seconded by Aznar.

Motion Passed: 5-1, Martinez recused



DEPARTMENT OF PUBLIC WORKS

MEMORANDUM

TO: Beritt Odom, Principal Planner

CC: Michelle Cruz, Administrative Technician
Subdivision File

FROM: Joe Martellaro, Associate Engineer II

SUBJECT: SAP-23-01 DFB Subdivision, SAP

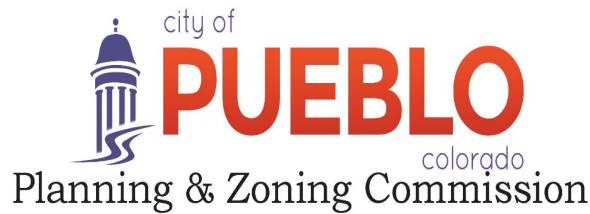
DATE: July 13, 2023

Please place the above referenced submittals on the City Council Agenda.

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative



Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

SAP-23-01

To: City of Pueblo, Planning and Zoning Commission

From: Beritt Odom, Principal Planner

Through: Scott Hobson, Acting Director of Planning and Community Development

Date: June 14, 2023

Subject: DFB Subdivision, A Special Area Plan

Applicant: John Chrisman, Chrisman Engineering

Property Owner: Tom Black, UPARK APT, LLC

Location: 4.64 acres located east of the Village Circle cul-de-sac, from O-1, Neighborhood Office District to R-4, Mixed Residential District. .

Existing Zone: O-1, Neighborhood Office District (concurrent request to rezone to R-4 Mixed Residential District).

Concurrent Request(s): S-22-14, DFB Subdivision, A Special Area Plan
Z-22-20, Rezone from O-1, Neighborhood Office District, to R-4, Mixed Residential District.

REQUEST:

The applicant is requesting to subdivide 4.64 acres into four multifamily residential lots, a trail utility, drainage, and access parcel, a non-buildable parcel, and a reduction in front and rear-yard setbacks.

ANALYSIS:

The DFB Subdivision, A Special Area Plan, is a proposed 4.64-acre multifamily residential subdivision located east of the Village Circle terminus. The land is unimproved and not previously subdivided. The applicant is requesting to subdivide the land into four large lots to facilitate

development of multifamily residential structures. The applicant wishes to reduce select setbacks for each of the four lots, requiring a Special Area Plan.

Proposed Setback Reductions:

- Lot 1:
 - Proposed Front Yard Setback: 20-feet (reduction of 5-feet).
 - Rear Yard Setback: 5-feet (reduction of 10-feet)
 - Western Side-Yard Setback: 10-feet (increase of 5-feet)
- Lot 2:
 - Proposed Front Yard Setback: 20-feet (reduction of 5-feet).
 - Rear Yard Setback: 5-feet (reduction of 10-feet)
 - Eastern Side-Yard Setback: 10-feet (increase of 5-feet)
- Lot 3:
 - Proposed Front Yard Setback: 20-feet (reduction of 5-feet).
 - Western Side-Yard Setback: 10-feet (increase of 5-feet)
- Lot 4:
 - Proposed Front Yard Setback: 20-feet (reduction of 5-feet).
 - Eastern Side-Yard Setback: 10-feet (increase of 5-feet)
 - Western Side-Yard Setback: 10-feet (increase of 5-feet)
 - Southwestern Rear-Yard Setback from drainage pond located in the lot: 5-feet

DFB Subdivision extends Village Circle Drive to the east where it will intersect with Winecup Drive (formerly Sunflower Dr.). Winecup Drive extends north to intersect with Bluestem Blvd. The extensions of Village Circle Drive and Winecup Dr. conform with the PACOG Long Range Transportation Plan and are identified as roadway connections in the amended University Park Master Plan approved in 1987. The proposed roadways provide adequate access and circulation within the project area.

CHARACTER AND COMPATIBILITY:

Site Character:

The site is currently unimproved prairie grasses with a 10-foot concrete trail that runs, east and west, the length of the northern portion of the subdivision. The 10-foot concrete trail also runs north and south through the eastern portion of the subdivision and adjacent to the proposed Winecup Drive. These trail segments are part of the trail system that connects from Fountain Creek to Colorado State University-Pueblo and provides a connection from the University Park residential neighborhoods.

Neighborhood Compatibility:

North	R-1, Single-Family Residential, undeveloped
East	R-5, Mixed Residential and Office District, undeveloped
South	R-5, Mixed Residential and Office District, undeveloped
West	R-4, Mixed Residential District, developed with four-plex and duplex residential structures.

ABILITY TO COMPLY WITH PROPOSED ZONE DISTRICT:

All lots exceed the 8,000 square foot minimum lot area for R-4 multifamily residential.

OBJECTIVES AND REQUIREMENTS OF SPECIAL AREA PLANS:

1. If residential, the overall net density of the area so planned, exclusive of the street rights-of-way, shall not be greater than if each individual parcel were built with a lot size conforming to the requirements of the zone district.

- Affirmative finding. The minimum lot size for multifamily residential in a R-4 Zone District, is 8,000 sq. ft. All four lots exceed the minimum size required, the overall net development area is 2.97 acres.
 - Lot 1: 17,607 sq. ft.
 - Lot 2: 17,075 sq. ft.
 - Lot 3: 28,269 sq. ft.
 - Lot 4: 49,819 sq. ft.

The Special Area Plan proposes 36 dwelling units with a maximum of 86 dwelling units. The size of the proposed lots could support up to 112 dwelling units. The proposed net 16.5 units per acre with a maximum net density of 39.39 units per acre is less than the possible net 51.305 units per acre in the R-4 Zone District.

2. The plan shall provide for the use and continuous maintenance of any remaining open space as well as only land common to all properties or controlled by a corporation or homeowners' association composed of all present and future owners of all property within the proposed development and provision is made for the recording of such with each deed. Any land dedicated to public use and formally accepted by City Council need not be maintained by such corporation or homeowners' association.

- Affirmative finding. The Subdivision and Special Area Plan includes "Covenants, Conditions, Restrictions and Easements" that address continuous maintenance of the common open space and parcels.

3. The plan may provide for exceptions to minimum setback and lot width and depth requirements for each building if such can reasonably be made so that the public health, safety, and general welfare will be protected.

- Affirmative finding, the Special Area Plan includes the reduction of front and rear-yard setbacks on certain lots, while still maintaining adequate setbacks for light, air, and structure maintenance.
 - Lots 1 and 2: Reduction of the front yard setback from 25-feet to 20-feet and the rear-yard setback from 15-feet to five feet.
 - Lot 3: Reduction of the front yard setback from 25-feet to 20-feet and an increase in the side yard setback from 5-feet to 10-feet.
 - Lot 4: Reduction of the front yard setback from 25-feet to 20-feet.

4. The plan shall provide that all setbacks on the periphery of the area shall not be less than those required for the zone district in which the building complex is located provided, however, that front setback requirements on interior street or service drives may be changed.

- Affirmative finding, all rear-yard setbacks, south of Village Cir. will maintain the standard 15-foot rear-yard setback along the southern (rear) property lines. The reduced rear-yard setbacks, north of Village Cir., are located adjacent to Parcel A and a 50-foot drainage parcel and are therefore not considered the periphery of the development.

5. The plan shall be in accordance with the Pueblo Comprehensive Plan and shall provide appropriate conditions and safeguards in harmony with the general purpose and intent of this Title.

Neutral finding. The area to be rezoned is designated as Suburban “Residential by the “Pueblo Regional Comprehensive Plan, 2022.” According to the Comprehensive Plan, Suburban Neighborhoods are predominantly single-family detached and attached homes on similarly sized lots and future development accommodates a similar mix of lot sizes and housing types. New neighborhoods should be designed with a mix of housing types and pedestrian and bicycle connectivity should be provided within and between neighborhoods. The recommended density for Suburban Neighborhoods is two or five units per acre.

The proposed multifamily development with four multifamily residential lots provides a mixture of housing types as promoted by the Comprehensive Plan; however, the proposed 36 dwelling units equals a gross density of approximately 7.75 units per acre, which exceeds the maximum recommended density. Additionally, the proposed lots provide enough lot area, as required by the R-4 Zone District, to accommodate up to 112 residential units, resulting in 24-units per acre. The Special Area Plan sets a maximum of 86 residential units resulting in a possible gross density of 18.49 units per acre.

The development site is in the “Amended University Park Master Plan,” which was approved in January 1987. The plan indicates commercial uses to be developed to the west of the site; however, multifamily and duplex units were actually developed. The land use portion of the master plan does not state what uses are most appropriate for the subject property. On February 23, 1987 the subject property was rezoned to O-1. The staff findings indicated that the Pueblo Comprehensive Plan designated the area as “Urban Residential,” which provides areas of higher density residential. The staff report’s findings concluded that the rezoning was in compliance with the Comprehensive Plan. The O-1 rezoning was proposed to serve as a buffer between the commercial uses located south of the subject property and the single-family residences located in the University Park development north of the property. The office uses were never developed on subject property. The proposed multifamily residential uses would be an extension of the existing multifamily uses that are located west of the site. Parcel A containing a drainage and trail easement, in addition to the existing drainage easement located north of the subject site, which ranges in width from 100-ft to 225 ft., provides a natural buffer between the proposed multifamily and single-

family residential uses located north of the site. The master planning of this site has been amended multiple times and it appears that the approved development in the area has not strictly followed the approved master plan nor the Pueblo Regional Comprehensive Plan.

6. The plan shall provide the property with adequate access to transportation; water supply, waste disposal, fire and police protection, and other needed public facilities and services in accordance with the approved subdivision plat.
 - Affirmative finding. The eastern extension of Village Cir. through the development site and the southern extension of Winecup Dr. south from Bluestem Blvd. to Village Cir. provides adequate access to transportation.
 - Water and wastewater mains are located in Village Cir. and will be extended east within the extension of Village Cir. to provide utility service to the proposed multifamily residential development.
7. The street plan shall be in conformity with the most recently adopted major street plan known as the Pueblo Area Transportation System Plan. The street plan, including interior circulation for the special area plan, shall be designed so that no undue traffic congestion or unnecessary traffic hazards will be created in the special area plan or in any adjoining neighborhood.
 - Affirmative finding, the DFB Subdivision extends Village Circle Drive to the east where it will intersect with Winecup Drive (formerly Sunflower Dr.). Winecup Drive extends north to intersect with Bluestem Blvd. The extensions of Village Circle Drive and Bluestem Blvd. conform with the PACOG Long Range Transportation Plan
8. The plan shall provide traffic access ways, interior circulation ways and parking and loading spaces as required for the zone district in which the land is located.
 - Affirmative, Village Cir. and Winecup Dr. provide interior circulation, each lot must develop parking based on the municipal code requirements for the proposed use at the time of development.
9. The plan shall be designed so that there will not be a substantially adverse effect upon the character of the neighborhood or upon adjacent property or property values in the area.
 - Affirmative finding, the combined drainage and trail easement, which ranges in width from 100-ft to 225-ft, located north of the proposed development will provide a natural buffer between the single-family homes north of the development site and the proposed multifamily residential development.
10. The plan shall incorporate adequate safeguards, including but not limited to screening, fences, and landscaping to protect and maintain harmony with the surrounding area.
 - Affirmative finding, the applicant will provide a six-foot tall opaque fence along the northern property lines of Lots 1 and 2 to provide a buffer and screening between the single-family homes and trail located immediately north of the development site.

11. The plan shall provide the development sequence of the land within the plan if development is to be done in phases. Subdivision plats shall be submitted for the land proposed to be developed in the same development.

- Not applicable, the applicant is not proposing to develop in phases.

12. The plan shall provide the location and dimensions of all existing and proposed buildings, structures, rights-of-way, easements, and improvements.

- Not applicable, the project site is currently undeveloped.

RECOMMENDED ACTION:

Staff recommends the Planning and Zoning Commission forward a recommendation to City Council that the requested Special Area Plan be approved with the following condition. The condition must be addressed prior to City Council review and approval:

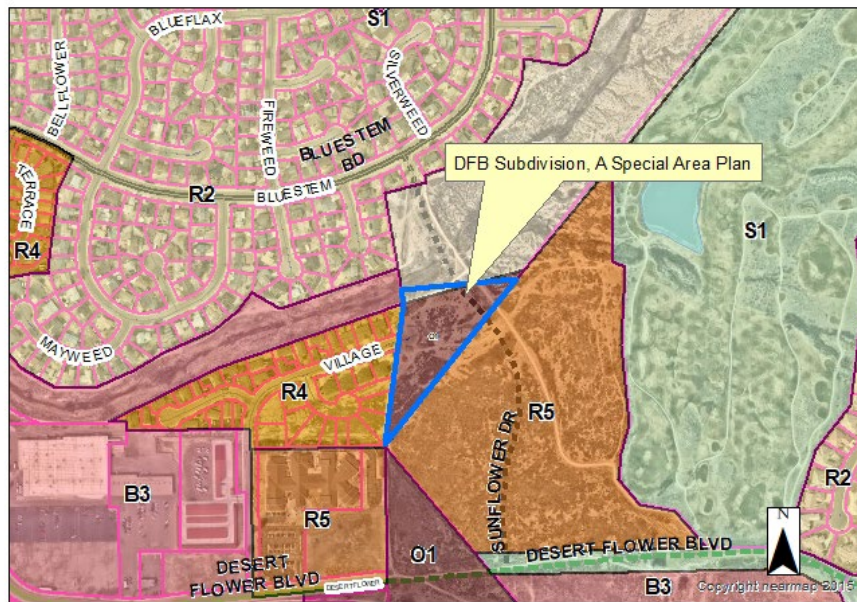
1. Create a 10-foot-wide trail easement extending from the western boundary of Parcel A, through Lot 1, west along the northern property line to the western most property line of Lot 1.
2. Include a note on the Special Area Plan plat that a 6-foot-tall opaque fence will be constructed along the northern property lines of Lots 1 and 2.
3. If the proposed Street Name Change of Sunflower Drive to Winecup Drive is not recommended for approval to City Council or not approved by City Council, the applicant must propose a new street name for the north/south street. The street name must be approved by City staff and PRBD before recording.

ATTACHMENTS:

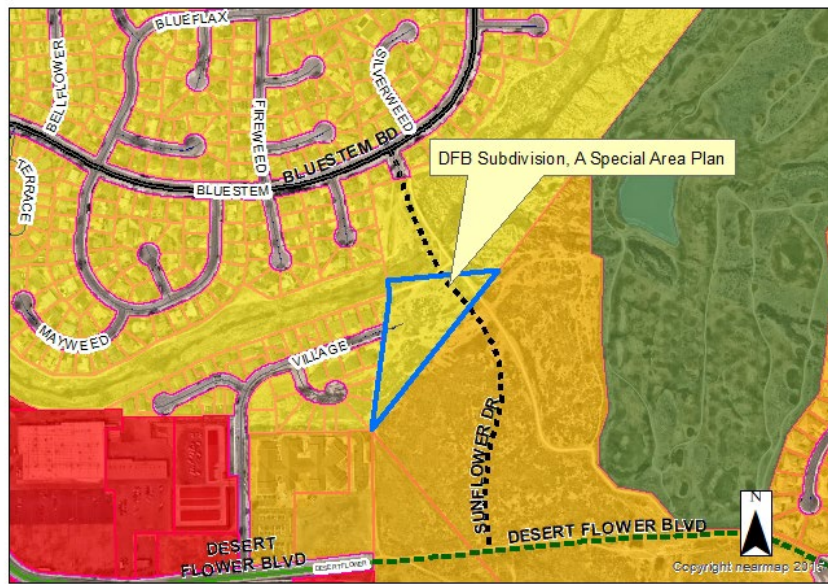
- A. Aerial Map
- B. Zoning Map
- C. Comprehensive Plan Map
- D. Site Photographs
- E. Application
- F. Special Area Plan
- G. SRC Memo, June 7, 2023
- H. Amended University Park Master Plan, 1987
- I. Trail Exhibit



A. Aerial Map



B. Zoning Map



C. Comprehensive Plan Map



Public Notice and Site Photograph taken from the existing Village Cir. cul-de-sac.



View looking north from the Village Cir. cul-de-sac.



View of the subdivision site looking south from the Village Cir. cul-de-sac.

Andrew Hayes
Director Public Works
Director
Transportation Department
Steven Meier
Director Parks & Recreation



Scott Hobson
Acting Director Planning &
Community Development
Executive Secretary of
Planning & Zoning
Commission

MEMORANDUM

To: Planning and Zoning Commission

From: Subdivision Review Committee

Date: June 7, 2023

Subject: S-22-14 and SAP-23-01 DFB Subdivision, A Special Area Plan

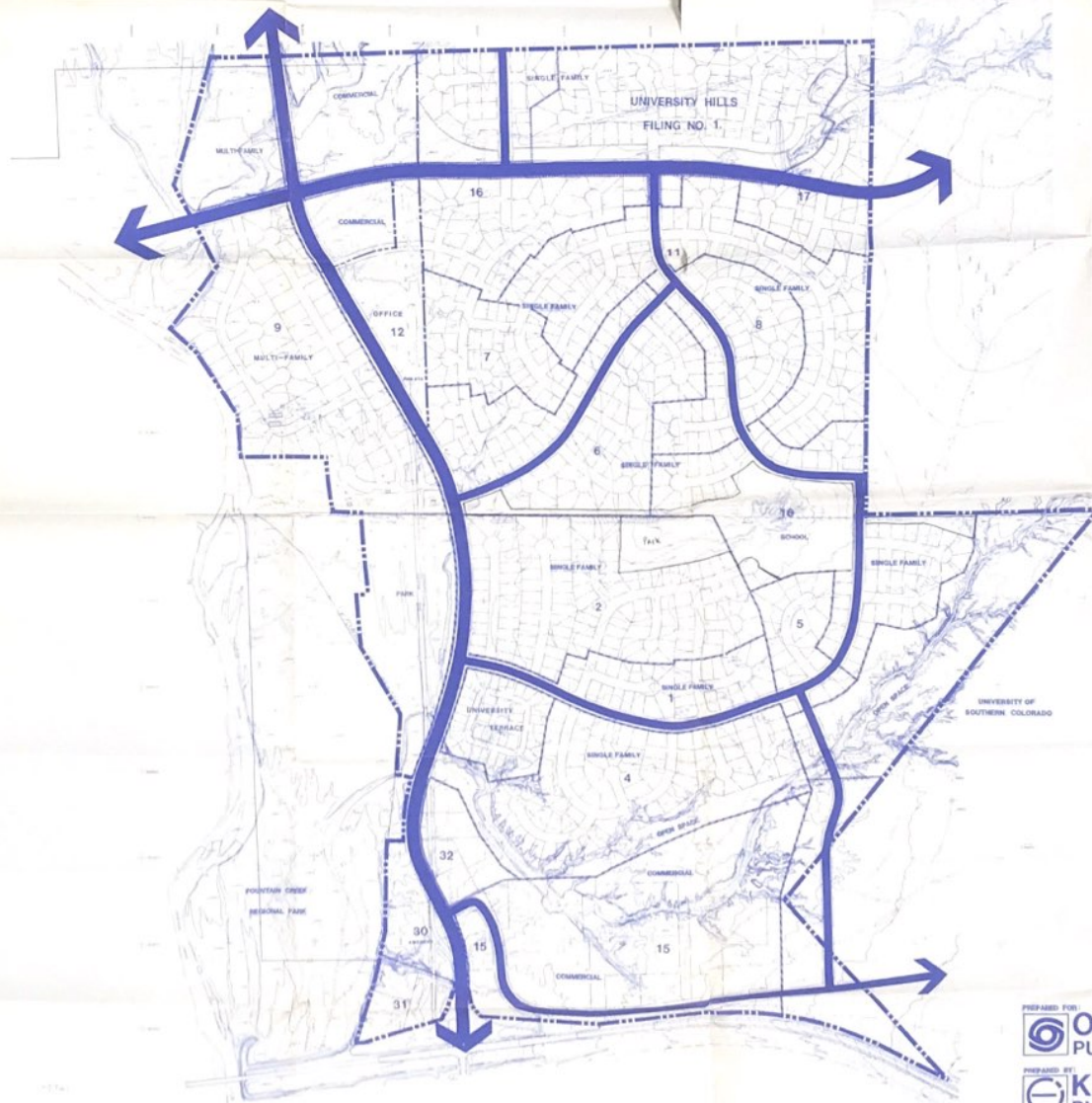
S-22-14 DFB, A Special Area Plan: The Subdivision Review Committee recommends the Planning and Zoning Commission forward a recommendation that the requested Subdivision be **APPROVED** with the following noted:

Requests for Modifications to Requirements:	None
Request for Deferred Filings	The applicant submitted a request for deferred filings
Plat Deficiencies:	None
Conditions of Approval (all conditions must be addressed prior to City Council review):	1. Show the existing five-foot utility easement and 10-foot-wide trail easement extending from the western boundary of Parcel A, through Lot 1, west along the northern property line to the western most property line of Lot 1, encompassing the existing improved trail. Please refer to Attachment G, Trail Exhibit 2. Remove Parcel references associated with previously dedicated Drainage Easements as shown in the attached redlined DFB Subdivision, A Special Area Plan. 3. Amend subtitle to reference University Park Subdivision, 17th Filing, A Special Area Plan 4. If the proposed Street Name Change of Sunflower Drive to Winecup Drive is not recommended for approval to City Council or not approved by City Council, the applicant must propose a new street name for the north/south street. The street name must be approved by City staff and PRBD before recording.

SAP-23-01 DFB Subdivision, a Special Area Plan: Staff recommends the Planning and Zoning Commission forward a recommendation that the requested Special Area Plan be Approved with the following condition. The condition must be addressed prior to City Council review and approval:

Conditions of Approval:	Include a note on the Special Area Plan plat that a 6-foot-tall opaque fence will be constructed along the northern property lines of Lots 1 and 2.
--------------------------------	---

-AMENDED- UNIVERSITY PARK • MASTER PLAN PUEBLO, COLORADO.



SCALE 1"=200'

SUMMARY CHART

	ACREAGE	PERCENTAGE
SINGLE FAMILY		
MULTI - FAMILY		
SCHOOL		
PARK & OPEN SPACE		
PUBLIC/SEMI - PUBLIC		
COMMERCIAL		
OFFICE		
TOTAL		100 %

APPROVED BY:
THE PLANNING AND ZONING COMMISSION
OF THE CITY OF PUEBLO
ON 2/12/86.

PREPARED FOR:
OTERO INVESTMENTS
PUEBLO, CO.

PREPARED BY:
KLH ENGINEERING CONSULTANTS INC.
PUEBLO / COLORADO SPRINGS, CO.

DATE	BY	REVISION
1/1/86	KLH	1
2/12/86	KLH	2
3/1/86	KLH	3
4/1/86	KLH	4
5/1/86	KLH	5
6/1/86	KLH	6
7/1/86	KLH	7
8/1/86	KLH	8
9/1/86	KLH	9
10/1/86	KLH	10
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10/1/93	KLH	94
11/1/93	KLH	95
12/1/93	KLH	96
1/1/94	KLH	97
2/1/94	KLH	98
3/1/94	KLH	99
4/1/94	KLH	100

JN 85 153 86

Planning & Zoning Application

Please type or print clearly. Illegible applications will not be accepted. Case #: _____

Contact Info	Property Owner		Applicant	
	Name: TOM BLACK		Name: SAME	
	Company UPARK APT, LLC		Company:	
	Address: 925 W. KENYON AVE, STE 200		Address:	
	Zip: 80110		Zip:	
	Phone: (719) 544-2732		Phone: ()	
	Email: tom@feketehomes.com		Email:	
	Engineer		Surveyor	
	Name: JOHN D. CHRISMAN, P.E.		Name: STEWART L. MAPES, JR., P.L.S.	
	Company: CHRISMAN ENGINEERING, INC.		Company: CLARK LAND SURVEYING, INC.	
Address: P.O. BOX 8564		Address: 177 S. TIFFANY DRIVE		
Zip: 81008		Zip: 81007		
Phone: (719) 924-0012		Phone: (719) 633-8533		
Email: John@ChrismanEngineering.com		Email: stewart@clarkls.com		
<i>The applicant will be the primary contact unless otherwise noted.</i>				
Property Info	Project Location: Future Village Circle and Sunflower Drive intersection (address or general description)			
	Parcel No(s): 418100008, 418130024			
	Existing Zone: O-1		Proposed Zone (if applicable): R-4	
	PUD Name (if applicable):			
Project Scope	Project Name: D F B SUBDIVISION, A SPECIAL AREA PLAN			
	☐ Rearrangement of Property Boundaries: # of existing lots: _____ Total acres: _____			
	☐ Overall Development Plan			
	☐ Site Plan Review: Building area: _____sf ☐ HARP ☐ Development Plan ☐ PUD ☐ Student Housing			
	☒ Special Area Plan			
	☐ Street Name Change: Existing Name: _____ Proposed Name: _____			
	☐ Subdivision: # of lots: _____ Total acres: _____			
	☐ Text Amendment			
	☐ Vacation: ☐ Street ☐ Alley ☐ Easement ☐ Other: _____			
	☐ Other: _____			

(Continue Next Page)

(Continued from previous page)

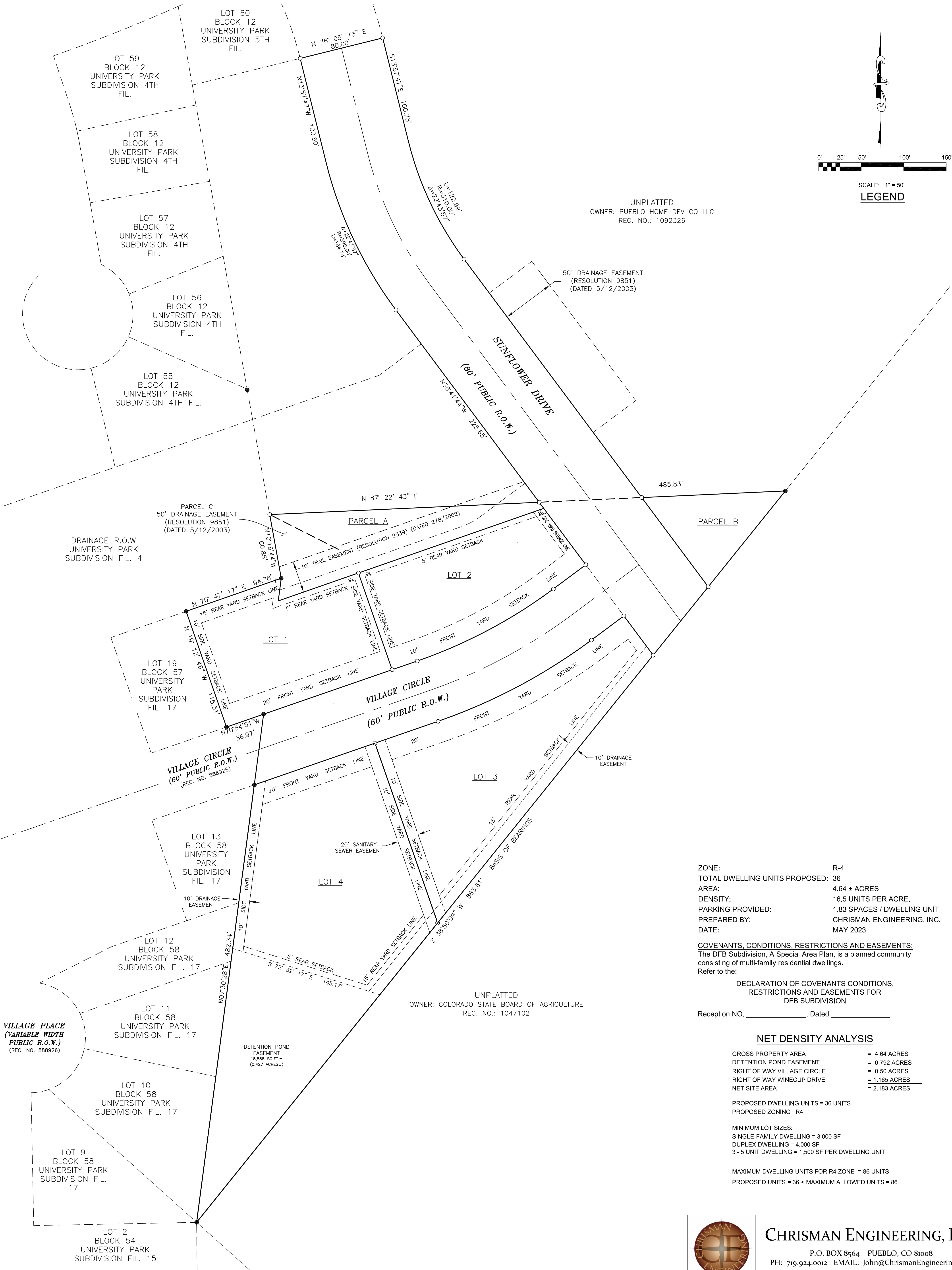
Project Information	Provide a brief description of the proposed request:		
	The project is a proposed (5) lot, multi-family subdivision located at the east end of Village Circle extending to the future Sunflower Drive. The Special Area Plan will allow reduced setbacks from the interior lot lines to allow more flexibility for building and off-street parking layouts.		
	What is the total acreage included in the project?	4.64 ac	
	What is the proposed use of the property?		
	☐ Commercial ☒ Multi-family ☐ Residential ☐ Industrial ☐ Other		
	Are there any other pending or recently approved Land Use applications regarding this property? ☒ Yes ☐ No		
Attachments	If yes, please list: S-22-14, Z-2-20		
	<u>Attachment Checklist</u>		
Terms	The following list of attachments are required to accompany all applications:		
	☐ A. CD with DWF and DWG (Autocad) file of all plans and drawings & a PDF of all documents submitted. ☐ B. Pueblo County Assessor's Property Information print out (www.co.pueblo.co.us) ☐ C. Additional information as required by the P&Z Submittal Requirements Sheet .		
Signatures	By signing below, the Property Owner and Applicant are representing that each understands and agrees to the following terms:		
	1. Authorized personnel from the City of Pueblo, are hereby granted the right to enter the subject property for the purposes of reviewing and processing the application, including Certificate of Occupancy Inspections. 2. There are no known hazards or vicious animals present on the subject property. 3. All information contained in this application, is true and accurate to the best of my knowledge. 4. The City of Pueblo is under no obligation to approve the request contained in this application. No promises of approval are conveyed with the acceptance of this application. 5. It is highly recommended that a licensed surveyor complete a property survey before any construction takes place. The property owner is responsible for any construction that takes place within the boundaries of their property. The city may require any construction built outside of the property legal boundaries or within any setbacks (by intent or error), to be removed at the owners' expense.		
Signatures	Property Owner		
	Print Name:	Tom Black	
	Signature:		Date: Jan. 27, 2023
	Applicant, if different from Property Owner		
	Print Name:		
	Signature:		Date:

Office Use Only	Zoning Compliance (Completed by City Staff)		
	Application checked for completeness by:	Date:	Fee Paid:

DFB SUBDIVISION

A SPECIAL AREA PLAN

A RE-SUBDIVISION OF LOT 20, BLOCK 57, UNIVERSITY PARK SUBDIVISION,
THE PARCEL AS DESCRIBED IN WARRANTY DEED RECORDED UNDER REC. NO. 2164046,
AND A PORTION OF THE PARCEL AS DESCRIBED IN SPECIAL WARRANTY DEED RECORDED UNDER REC. NO. 1092326,
LYING WITHIN THE NE 1/4 OF SECTION 18, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M.
CITY AND COUNTY OF PUEBLO, STATE OF COLORADO



ZONE: R-4
TOTAL DWELLING UNITS PROPOSED: 36
AREA: 4.64 ± ACRES
DENSITY: 16.5 UNITS PER ACRE.
PARKING PROVIDED: 1.83 SPACES / DWELLING UNIT
PREPARED BY: CHRISMAN ENGINEERING, INC.
DATE: MAY 2023

COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS:
The DFB Subdivision, A Special Area Plan, is a planned community
consisting of multi-family residential dwellings.
Refer to the:

DECLARATION OF COVENANTS CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR
DFB SUBDIVISION
Reception NO. _____, Dated _____

NET DENSITY ANALYSIS

GROSS PROPERTY AREA	= 4.64 ACRES
DETENTION POND EASEMENT	= 0.792 ACRES
RIGHT OF WAY VILLAGE CIRCLE	= 0.50 ACRES
RIGHT OF WAY WINECUP DRIVE	= 1.165 ACRES
NET SITE AREA	= 2.183 ACRES

PROPOSED DWELLING UNITS = 36 UNITS
PROPOSED ZONING R4

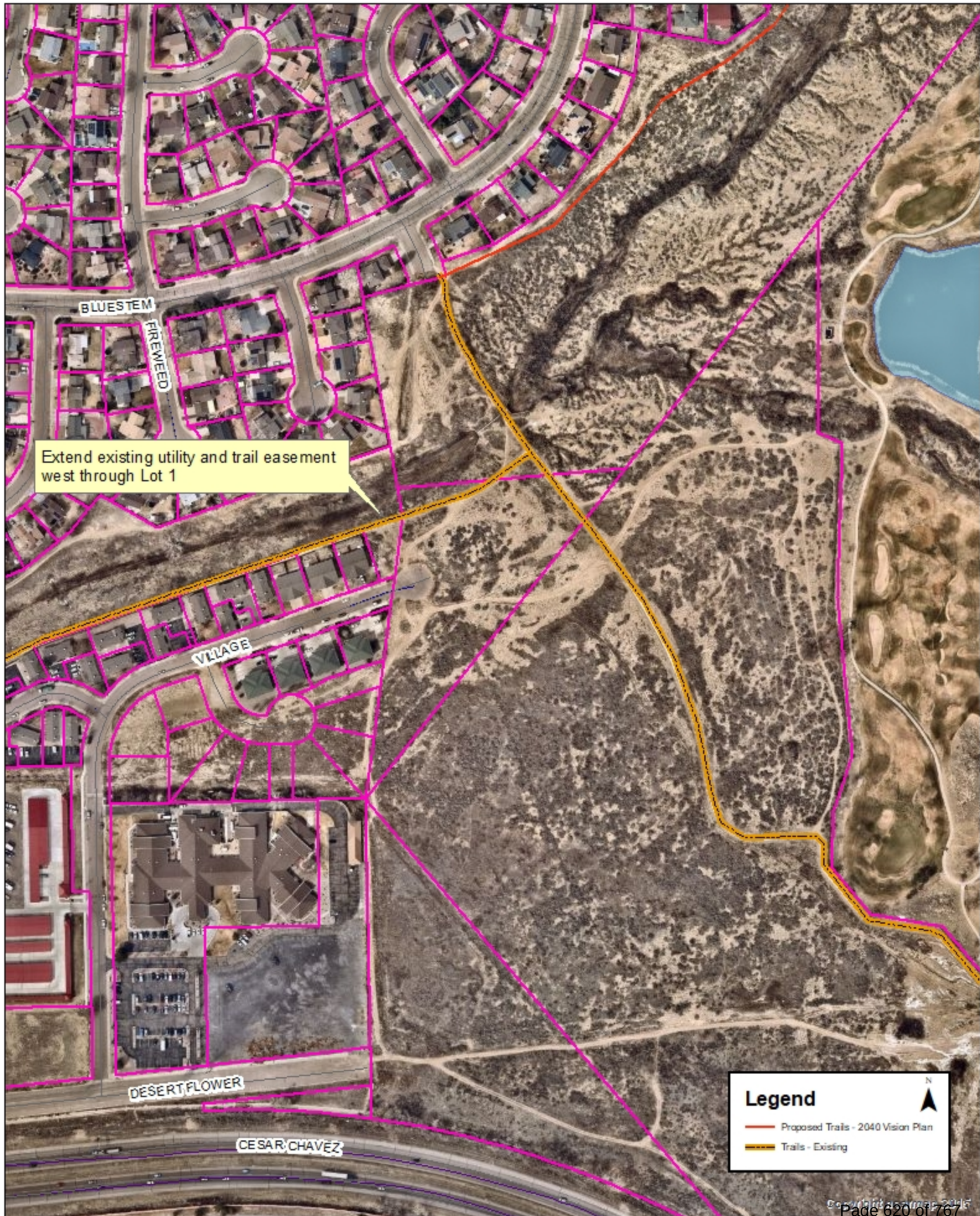
MINIMUM LOT SIZES:
SINGLE-FAMILY DWELLING = 3,000 SF
DUPLEX DWELLING = 4,000 SF
3 - 5 UNIT DWELLING = 1,500 SF PER DWELLING UNIT

MAXIMUM DWELLING UNITS FOR R4 ZONE = 86 UNITS
PROPOSED UNITS = 36 < MAXIMUM ALLOWED UNITS = 86



CHRISMAN ENGINEERING, INC.
P.O. BOX 8564 PUEBLO, CO 81008
PH: 719.924.0012 EMAIL: John@ChrismanEngineering.com

Trail Easement Exhibit



This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **John Chrisman, for Le Mouton Noir LLC** for approval of the following application(s):

Z-22-20 Rezoning: Rezone approximately 3.74 acres from O-1, Neighborhood Office District to R-4, Mixed Residential District. Generally located east of the Village Cir. Terminus.
S-22-14 Subdivision and SAP-23-01: DFB Subdivision, subdivision of 3.736 acres into five multifamily residential lots. Generally located east of the Village Cir. Terminus.

The Planning and Zoning Commission meeting will be held on June 14, 2023, at 3:30 p.m., in City Council Chambers, 1 City Hall Place, Pueblo, CO or by Zoom: <https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGbnlCdHRrUHNfZnpPWGIYdz09>, Meeting ID: 927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston). You are welcome to attend this public hearing and express your viewpoint concerning this proposal. To review the plans and staff report for the proposed application, please visit www.pueblo.us/PandZ and click on “Most Recent Agenda” no sooner than the Friday prior to the hearing. **Please contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

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Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

CASE NUMBER: SAP-23-01

CERTIFICATION

I hereby certify that I did this day cause written notice of the public hearing on the proposed Re-Subdivision of the property commonly known as Lot 20, Block 57 of the University Park Subdivision 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 final plat is proposed by depositing the same properly addressed and postage paid in the post office, as set forth in the Code of Ordinances, Section 17-4-29.

5-30-2023

(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 special area plan of Country Club Vista, A Special Area Plan, upon which action is pending as set forth in the Code of Ordinances, Section 17-6-2.

5-30-2023

(Date)

PUEBLO PLANNING & ZONING COMMISSION

By Cindy Caputo

Owner

ATKINSON TRACY
BURGESS RICHARD JOHN / SPINUZZI P
CHOSICH MICHAEL/CHOSICH GRETA SUE
CITY OF PUEBLO A MUNICIPAL CORPORAT
COLORADO STATE BOARD OF AG + ATTN: JOHNNA DOYLE DEPUTY GENERAL COUNSEL
COZZOLINO KEVIN P/COZZOLINO DEANN
DAY CHRISTOPHER / DAY ALLISON
FEKETE HOMES INC
GOLDEN RULE PROPERTIES
GRADISHAR CINDY ANN
HAASE BRUCE JR
JAGD SUSAN M + JAGD ALLAN R
MORGAN SHAWN M + CRUZ PAULETTE F
PRESS PROPERTIES LLC + C/O MARK SWANSON
PUEBLO HOME DEV CO LLC + C/O BARBARA O CONNELL
PUEBLO MEDICAL INVESTORS LTD + C/O LIFE CARE CENTERS OF AMERICA ATTN: TAX DEPT
UNIVERSITY VILLAGE PARTNERSHIP
UPARK APT LLC
UPARK APT, LLC
WALKING STICK 5 LLC
ZINANTI MARK M/ZINANTI JEHAN L

OwnerStree

4429 PORTA FINA DR
8 FIREWOOD CT
7 WOODSORREL CT
PO BOX 1427
2200 BONFORTE BLVD
5 WOODSORREL CT
6 FIREWEED CT
1307 FORTINO BLVD STE D
36038 SOUTH RD
6 WOODSORREL CT
7 FIREWEED CT
3 WOODSORREL CT
4 WOODSORREL CT
345 STEELE ST
1825 N GRAND AVE
3001 KEITH ST NW
814 VILLAGE CT APT A
1307 FORTINO BLVD STE D
925 W KENYON AVE STE 2
14185 W 7TH AVE
8 WOODSORREL CT

OwnerCity	OwnerStat	OwnerZip
PUEBLO	CO	81001-1096
PUEBLO	CO	81001
PUEBLO	CO	81001-1120
PUEBLO	CO	81002-1427
PUEBLO	CO	81001-4901
PUEBLO	CO	81001-1120
PUEBLO	CO	81001-1111
PUEBLO	CO	81008-2032
PUEBLO	CO	81006-9343
PUEBLO	CO	81001-1120
PUEBLO	CO	81001-1111
PUEBLO	CO	81001-1120
PUEBLO	CO	81001-1120
DENVER	CO	80206-4414
PUEBLO	CO	81003-2634
CLEVELAND	TN	37312-3713
PUEBLO	CO	81001-5117
PUEBLO	CO	81008-2032
ENGLEWOOD	CO	80110-3471
GOLDEN	CO	80401-4508
PUEBLO	CO	81001-1120



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 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 APPROVING THE DFB SUBDIVISION, A SPECIAL AREA PLAN

SUMMARY:

The applicant is requesting to subdivide 4.64-acres into four multifamily residential lots, a trail utility, drainage, and access parcel and a non-buildable parcel.

PREVIOUS COUNCIL ACTION:

The applicant is concurrently requesting to rezone 3.736-acres of land located east of the Village Circle cul-de-sac from O-1 to R-4 (Z-22-20) and is also requesting to create a Special Area Plan (SAP-23-01).

The City staff has submitted an Ordinance for final reading on July 24, 2023 requesting to change the name of Sunflower Drive to Winecup Drive (SNC 23-01). This street will connect from Bluestem Boulevard within the University Park neighborhood to the proposed subdivision.

BACKGROUND:

The subject property is located east of the Village Circle terminus. The land is unimproved and not previously subdivided. The applicant is requesting to subdivide the land into four large lots to facilitate development of multifamily residential structures. The applicant is requesting reduced rear and front yard setbacks for each of the four lots, requiring a Special Area Plan. The rear-yard setbacks are proposed to be reduced from 15-feet to five feet and the front yard setbacks from 25- feet to 20-feet. The subdivision also includes two parcels; Parcel A, which is dedicated for the use of trails, public utilities, drainage, access and as an erosion zone/no build area to be owned and maintained by the City of Pueblo. Parcel B is a non-buildable triangular parcel located in the easternmost portion of the subdivision. DFB Subdivision extends Village Circle Drive to the east where it will intersect with Winecup Drive (formerly Sunflower Drive). Winecup Drive extends north to intersect with Bluestem Boulevard. The extensions of

Village Circle Drive and Bluestem Boulevard conform with the PACOG Long Range Transportation Plan and are identified as roadway connections in the 1987 Amended University Park Master Plan.

The area to be subdivided is designated as Suburban “Residential by the “Pueblo Regional Comprehensive Plan, 2022.” According to the Comprehensive Plan, Suburban Neighborhoods are predominantly single-family detached and attached homes on similarly sized lots and future development accommodates a similar mix of lot sizes and housing types. New neighborhoods should be designed with a mix of housing types and pedestrian and bicycle connectivity should be provided within and between neighborhoods. Supporting land uses can include accessory dwelling units, single-family attached homes, duplexes, and townhouses. The recommended density for Suburban Neighborhoods is two or five units per acre.

The proposed multifamily development with four multifamily residential lots provides a mixture of housing types as promoted by the Comprehensive Plan; however, the proposed 36 dwelling units equals a gross density of approximately 7.75 units per acre, which exceeds the maximum recommended density. Additionally, the proposed lots provide enough lot area, as required by the R-4 Zone District, to accommodate up to 112 residential units, resulting in 24-units per acre. The Special Area Plan sets a maximum of 86 residential units resulting in a possible gross density of 18.49 units per acre.

The property is included within the “Amended University Park Master Plan,” which was approved in January 1987. The plan indicates commercial uses to be developed to the west of the site; however, multifamily and duplex units were actually developed. The land use portion of the master plan does not state what uses are most appropriate for the subject property. On February 23, 1987 the subject property was rezoned to O-1. The staff findings indicated that the Pueblo Comprehensive Plan designated the area as “Urban Residential,” which provides areas of higher density residential. The staff report’s findings concluded that the rezoning was in compliance with the Comprehensive Plan. The O-1 rezoning was proposed to serve as a buffer between the commercial uses located south of the subject property and the single-family residences located in the University Park development north of the property. The office uses were never developed on subject property. The proposed multifamily residential uses would be an extension of the existing multifamily uses that are located west of the site. Parcel A containing a drainage and trail easement, in addition to the existing 225-foot-wide drainage easement located north of the subject site, provides a natural buffer between the proposed multifamily and single-family residential uses located north of the site, in the University Park neighborhood.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their June 14, 2023 Regular Meeting, voted 5-1 to recommend approval, Commissioner Martinez recused.

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.

ALTERNATIVES:

If City Council does not approve this Ordinance, the site will not be resubdivided which will impede development of the site.

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. S-22-14 Attachments

ORDINANCE NO. 10532

AN ORDINANCE APPROVING THE DFB SUBDIVISION, A SPECIAL AREA PLAN

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

SECTION 1.

The final plat of the DFB Subdivision, a Special Area Plan being a subdivision of land legally described as:

BEGINNING at the northwest corner of said Lot 20, thence N70°47'17"E, along the north line of said Lot 20, (Basis of bearings is the southeastern line of the property, monumented on the northeast by No. 5 rebar with a yellow plastic cap, stamped "PLS 6128", flush with grade and on the southwest by No. 5 rebar with a yellow plastic cap, stamped "PLS 6128", 0.2 feet above grade, measured to bear S38°50'09"W, a distance of 883.61 feet), a distance of 94.78 feet, to the northeast corner of said Lot 20; thence N10°16'44"W, along the easterly boundary line of the University Park Subdivision, Filing Number 4, recorded June 10, 1977 as Reception Number 545590 in the records of said Clerk and Recorder, a distance of 60.85 feet, to the southeast corner of Parcel E as described in that Warranty Deed recorded September 6, 1995 as Reception Number 1092326 in the records of said Clerk and Recorder; thence along the south line of said Parcel E, N87°22'43"E, a distance of 485.83 feet, to a point on the northwesterly line of that parcel described as South Parcel in that Quit Claim Deed recorded June 8, 1994 as Reception Number 1047102 in the records of said Clerk and Recorder; thence S38°50'09"W, along said northwesterly line a distance of 883.61 feet, to the westerly corner of said South Parcel; thence N07°30'28"E, along the east boundary line of said University Park Subdivision, Filing Number 17, a distance of 482.31 feet, to the southeast corner of said Lot 20; thence S70°54'51"W, along the south line of said Lot 20, a distance of 36.97 feet, to the southwest corner of said Lot 20; thence N19°12'46"W, along the west line of said Lot 20, a distance of 115.31 feet, to the **POINT OF BEGINNING**.

Containing 162,729 Sq. Ft. or 3.736 acres, more or less.

attached hereto, is hereby approved. All dedicated streets, utility and drainage easements, rights-of-way and land set aside for public sites, parks and open spaces shown and dedicated on said plat are hereby accepted for public use.

SECTION 2.

The acceptance of such dedicated streets, rights-of-way, utility and drainage easements, public sites, parks and open spaces by the City does not obligate the City to maintain or repair same until such streets, rights-of-way, utility and drainage easements, public sites, parks and open spaces have been constructed and installed in compliance and in accordance with the requirements and provisions of Chapter 4, Title XII of the Pueblo Municipal Code, as amended and any agreement entered into pursuant thereto.

SECTION 3.

Neither the adoption of this Ordinance nor the requirements imposed hereby shall create any duty or obligation of any person, firm, corporation or other entity with regard to the

enforcement or nonenforcement of this Ordinance or the City's Subdivision Ordinances and regulations. No person, firm, corporation or other entity shall have any private right of action, claim or demand against the City or its officers, employees or agents, for any injury, damage or liability arising out of or in any way connected with the adoption, enforcement, or nonenforcement of this Ordinance or the Subdivision Ordinance and Regulations of the City, or the engineering, surveying, drainage improvement or other work or improvements required thereby. Nothing in this Ordinance or in the City's subdivision Ordinances and regulations shall create or be construed to create any claim, demand or liability against the City or its officers, employees or agents, or to waive any of the immunities, limitations on liability, or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101, et seq. Colorado Revised Statutes, or to waive any immunities or limitations on liability otherwise available to the City or its officers, employees or agents.

SECTION 4.

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

SECTION 5.

This Ordinance shall be approved upon final passage but shall not become effective until: (a) all information, documents, drawings, profiles, and plat required by Chapter 4 of Title XII of the Pueblo Municipal Code meeting and complying with the subdivision requirements of the City with such modifications, if any, approved by City Council, have been filed with and approved by the Director of Public Works, and (b) the final subdivision plat is recorded in the office of the Pueblo County Clerk and Recorder. If any such filings and approvals have been deferred pursuant to Section 12-4-5(b)(2) of the Pueblo Municipal Code and are not for any reason filed and approved within one (1) year after final passage of this Ordinance, or within any extended period granted by Resolution of the City Council, this Ordinance shall automatically be rescinded and repealed thirty (30) days after written notice of such rescission and repeal is given to the Subdivider. No vested rights shall accrue to the subdivision or be acquired until this Ordinance becomes effective.

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 July 24, 2023.

Final adoption of Ordinance by City Council on August 14, 2023.



President of City Council

Action by the Mayor:

☒ Approved on August 17, 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

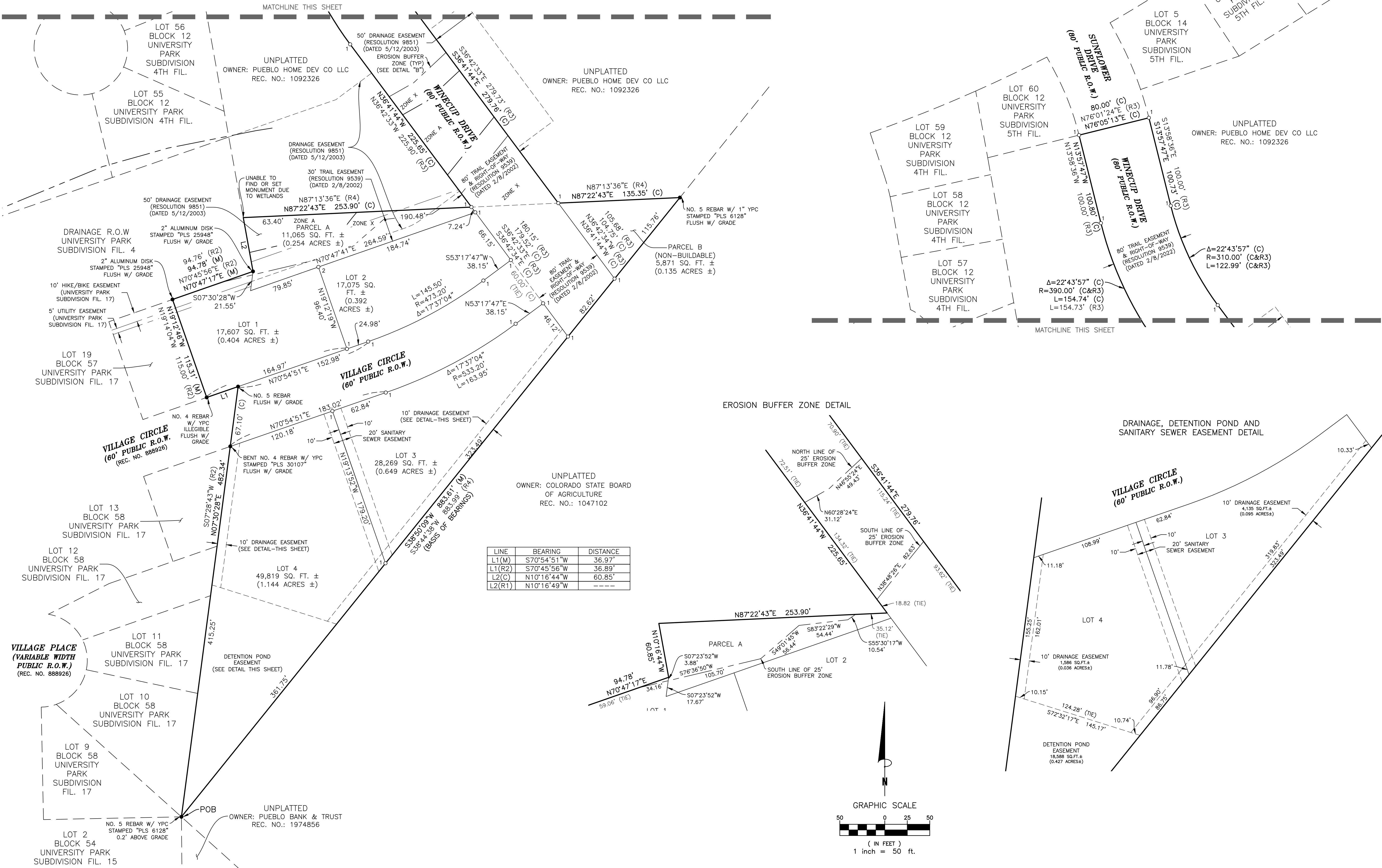
ATTEST



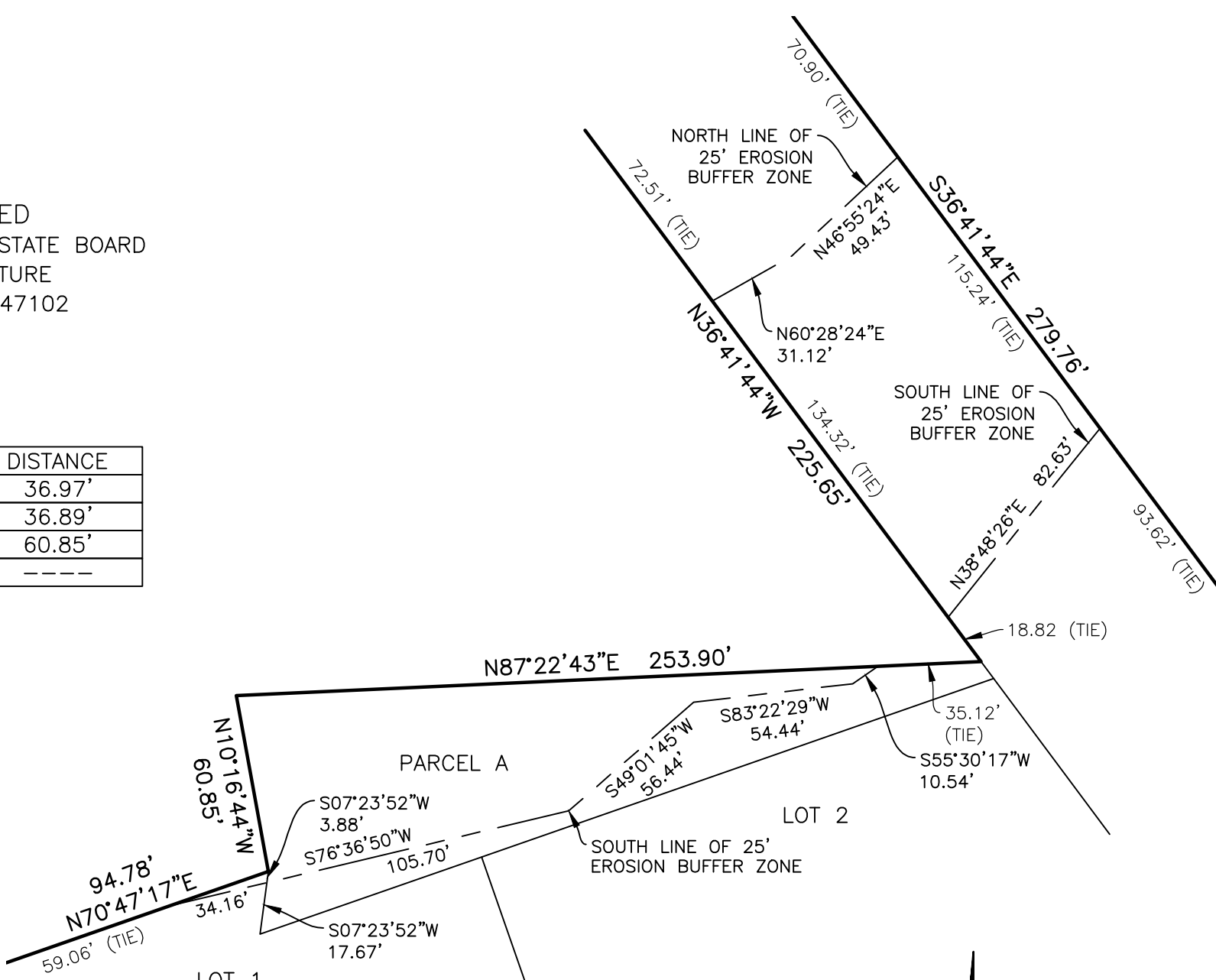
City Clerk

DFB SUBDIVISION, A SPECIAL AREA PLAN

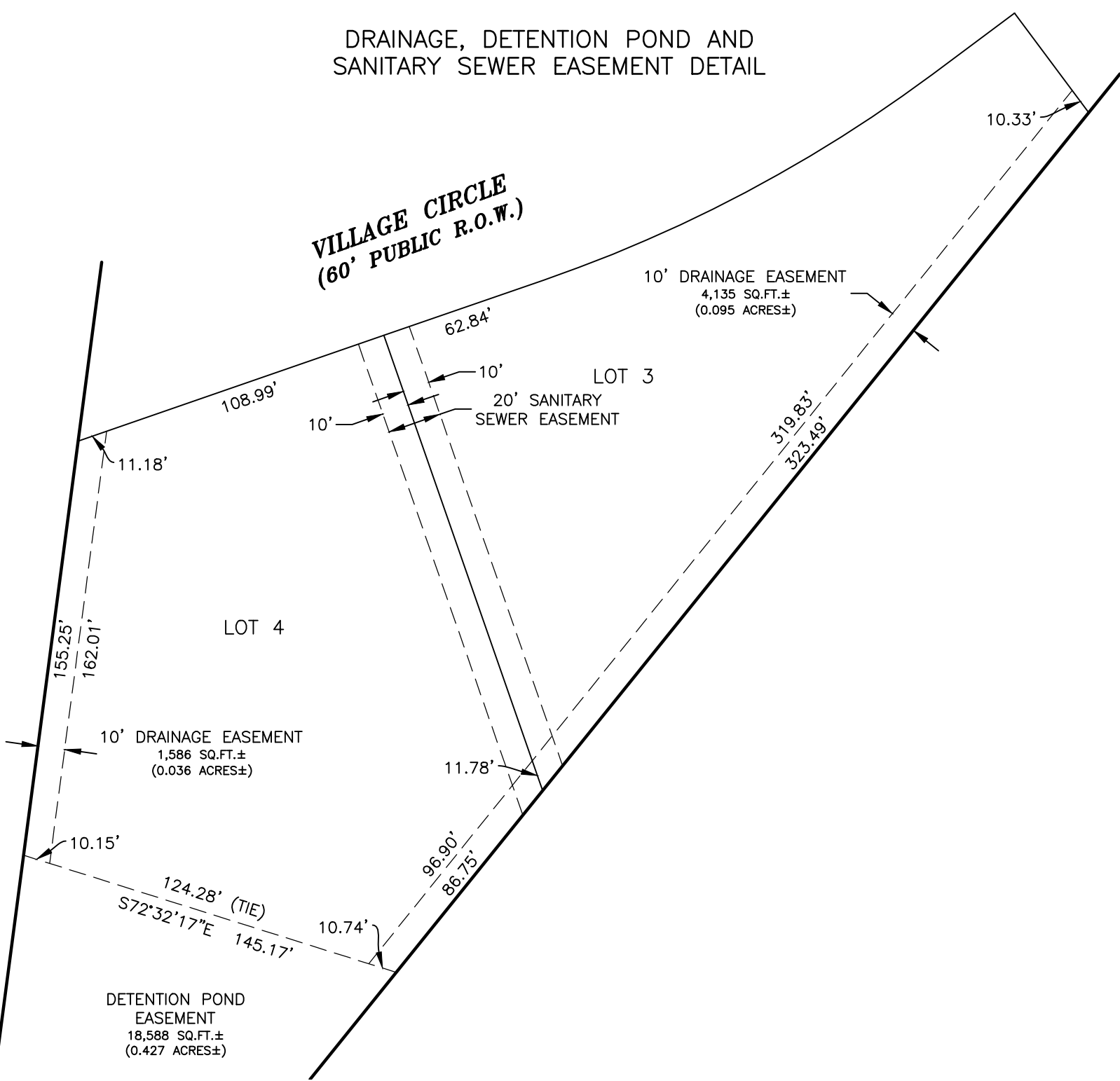
A RE-SUBDIVISION OF LOT 20, BLOCK 57, UNIVERSITY PARK SUBDIVISION, 17TH FILING, A SPECIAL AREA PLAN
THE PARCEL AS DESCRIBED IN WARRANTY DEED RECORDED UNDER REC. NO. 2164046,
AND A PORTION OF THE PARCEL AS DESCRIBED IN SPECIAL WARRANTY DEED RECORDED UNDER REC. NO. 1092326,
LYING WITHIN THE NE 1/4 OF SECTION 18, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M.
CITY AND COUNTY OF PUEBLO, STATE OF COLORADO



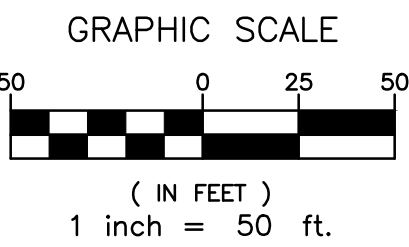
EROSION BUFFER ZONE DETAIL



DRAINAGE, DETENTION POND AND SANITARY SEWER EASEMENT DETAIL



LINE	BEARING	DISTANCE
L1(M)	S70°54'51"W	36.97'
L1(R2)	S70°45'56"W	36.89'
L2(C)	N10°16'44"W	60.85'
L2(R1)	N10°16'49"W	---



No.	Description	By	Date

Notice: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown herein.

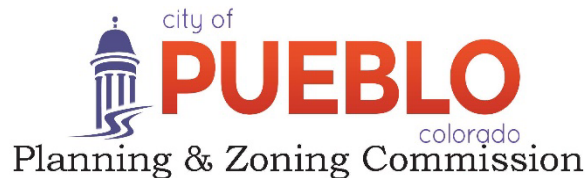
Project No.	200975	Drawn By: EJC	Date: 6/22/2021
		Checked By: SLW	Sheet 2 of 2

DFB SUBDIVISION, A SPECIAL AREA PLAN
A PORTION OF THE NE 1/4 OF SECTION 18,
TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE SIXTH P.M.,
CITY AND COUNTY OF PUEBLO, 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, June 14, 2023 – 3:30 p.m.

City Council Chambers, 1 City Hall Place

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

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

Commissioners Absent: None

Staff Members Present: Trevor Gloss, Assistant City Attorney, Beritt Odom, Principal Planner; Bart Mikitowicz, Senior Planner, and Cindy Capritta, Land Use Technician.

Staff Members Absent: Scott Hobson, Acting Director for Development of Planning and Community Development

APPROVAL OF THE AGENDA: Bailey moved to approve the May 10, 2023, agenda, seconded by, Avalos.

Motion Passed: 7-0

REGULAR AGENDA:

Public Hearing:

5. S-22-14 Subdivision: DFB Subdivision, A Special Area Plan, subdivision of 4.64 acres into four multifamily residential lots. Generally located east of the Village Circle terminus. Staff report by Principal Planner Beritt, Odom.

Public Hearing: Applicant, John Chrisman spoke in favor of the application. Speaking in opposition and sworn in was Greta Chosich, Cindy Gradishar and Kelsey Herman.

Commission Action: Bailey moved to recommend the application with staff conditions 1-4, seconded by Aznar.

Motion Passed: 5-1, Martinez recused



DEPARTMENT OF PUBLIC WORKS

MEMORANDUM

TO: Beritt Odom, Principal Planner

CC: Michelle Cruz, Administrative Technician
Subdivision File

FROM: Joe Martellaro, Associate Engineer II

SUBJECT: S-22-14 DFB Subdivision

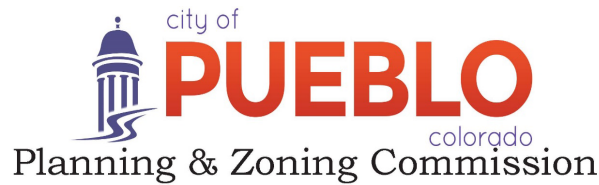
DATE: July 12, 2023

Please place the above referenced submittals on the City Council Agenda.

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative



Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

S-22-14

TO: City of Pueblo, Planning and Zoning Commission

FROM: Beritt Odom, Principal Planner

THROUGH: Scott Hobson, Acting Director of Planning and Community Development

DATE: June 14, 2023

SUBJECT: DFB Subdivision, A Special Area Plan

APPLICANT: John Chrisman, Chrisman Engineering

PROPERTY OWNER: UPARK APT. LLC

LOCATION: Generally located east of the Village Circle terminus

EXISTING ZONE: O-1, Neighborhood Office District
Proposed R-4, Mixed Residential District

CONCURRENT REQUESTS: Z-22-20, Rezone from O-1, Neighborhood Office District to R-4, Mixed Residential District.
SAP-23-01 DFB Subdivision Special Area Plan

REQUEST:

The applicant is requesting to subdivide 4.64 acres into four multifamily residential lots, a trail utility, drainage, and access parcel and a non-buildable parcel.

BACKGROUND AND ANALYSIS:

The subject property is located east of the Village Circle terminus. The land is unimproved and not previously subdivided. The applicant is requesting to subdivide the land into four large lots to facilitate development of multifamily residential structures. The applicant is requesting reduced rear and front yard setbacks for each of the four lots, requiring a Special Area Plan. The rear-yard setbacks are proposed to be reduced from 15-feet to five feet and the front yard setbacks from 25-feet to 20-feet. The subdivision also includes two parcels; Parcel A, which is dedicated for the use of trails, public utilities, drainage, access and as an erosion zone/no build area to be owned and maintained by the City of Pueblo. Parcel B is a non-buildable triangular parcel located in the easternmost portion of the subdivision.

DFB Subdivision extends Village Circle Drive to the east where it will intersect with Winecup Drive (formerly Sunflower Dr.). Winecup Drive extends north to intersect with Bluestem Blvd. The extensions of Village Circle Drive and Bluestem Blvd. conform with the PACOG Long Range Transportation Plan and are identified as roadway connections in the 1987 Amended University Park Master Plan.

APPLICABLE REGULATIONS:

Sec. 12-4-6(b)(1) through (3) concerning the necessary information and supporting documents to be submitted for review and required drawing to be recorded; and Sec. 12-4-7 concerning the minimum standards for all subdivisions.

RECOMMENDED MOTION: The Subdivision Review Committee recommends the Planning and Zoning Commission forward a recommendation that the requested Subdivision be **APPROVED** with the following noted:

Requests for Modifications to Requirements:	None
Request for Deferred Filings	Request for Deferred Filings: The Subdivision Review Committee has no objection to the Request for Deferred Filings, SRC Memo, June 7, 2023.
Plat Deficiencies:	None
Conditions of Approval (all conditions must be addressed prior to City Council review):	1. Show the existing five-foot utility easement and 10-foot-wide trail easement extending from the western boundary of Parcel A, through Lot 1, west along the northern property line to the western most property line of Lot 1, encompassing the existing improved trail. 2. Remove Parcel references associated with previously dedicated Drainage and Trail Easements, as shown in the attached redlined DFB Subdivision, A Special Area Plan. 3. Amend subtitle to reference University Park Subdivision, 17th Filing, A Special Area Plan 4. If the proposed Street Name Change of Sunflower Drive to Winecup Drive is not recommended for approval to City Council or not approved by City Council, the applicant must propose a new street name for the north/south street. The street name must be approved by City staff and PRBD before recording.

PLANNING AND COMMUNITY DEVELOPMENT COMMENTS

CHARACTER AND COMPATIBILITY:

❑ **Site Character:**

- ❑ The site is currently unimproved prairie grasses with a 10-foot concrete trail that runs, east and west, the length of the northern portion of the subdivision. The 10-foot concrete trail also runs north and south through the eastern portion of the subdivision and adjacent to the proposed Winecup Drive. These trail segments are part of the trail system that connects Fountain Creek to Colorado State University-Pueblo and provides a connection from the University Park residential neighborhoods.

❑ **Neighborhood Compatibility:**

North	R-1, Single-Family Residential, undeveloped
East	R-5, Mixed Residential and Office District, undeveloped
South	R-5, Mixed Residential and Office District, undeveloped
West	R-4, Mixed Residential District, developed with four-plex and duplex residential structures.

❑ **Comprehensive Plan Compliance:**

The area to be rezoned is designated as Suburban “Residential by the “Pueblo Regional Comprehensive Plan, 2022.” According to the Comprehensive Plan, Suburban Neighborhoods are predominantly single-family detached and attached homes on similarly sized lots and future development accommodates a similar mix of lot sizes and housing types. New neighborhoods should be designed with a mix of housing types and pedestrian and bicycle connectivity should be provided within and between neighborhoods. The recommended density for Suburban Neighborhoods is two or five units per acre.

The proposed multifamily development with four multifamily residential lots provides a mixture of housing types as promoted by the Comprehensive Plan; however, the proposed 36 dwelling units equals

a gross density of approximately 7.75 units per acre, which exceeds the maximum recommended density. Additionally, the proposed lots provide enough lot area, as required by the R-4 Zone District, to accommodate up to 112 residential units, resulting in 24-units per acre. The Special Area Plan sets a maximum of 86 residential units resulting in a possible gross density of 18.49 units per acre.

The development site is in the “Amended University Park Master Plan,” which was approved in January 1987. The plan indicates commercial uses to be developed to the west of the site; however, multifamily and duplex units were actually developed. The land use portion of the master plan does not state what uses are most appropriate for the subject property. On February 23, 1987 the subject property was rezoned to O-1. The staff findings indicated that the Pueblo Comprehensive Plan designated the area as “Urban Residential,” which provides areas of higher density residential. The staff report’s findings concluded that the rezoning was in compliance with the Comprehensive Plan. The O-1 rezoning was proposed to serve as a buffer between the commercial uses located south of the subject property and the single-family residences located in the University Park development north of the property. The office uses were never developed on subject property. The proposed multifamily residential uses would be an extension of the existing multifamily uses that are located west of the site. Parcel A containing a drainage and trail easement, in addition to the existing 225-foot-wide drainage easement located north of the subject site, provides a natural buffer between the proposed multifamily and single-family residential uses located north of the site. The master planning of this site has been amended multiple times and it appears that the approved development in the area has not strictly followed the approved master plan nor the Pueblo Regional Comprehensive Plan.

ABILITY TO COMPLY WITH THE ZONE DISTRICT REGULATIONS:

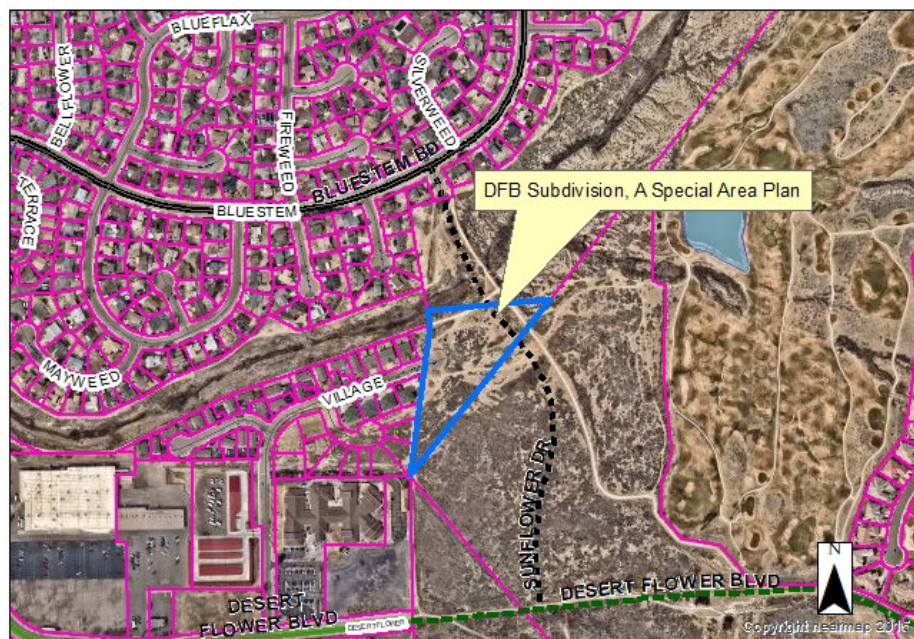
- All lots exceed the 8,000 square foot minimum lot area for R-4 multifamily residential.

REFERRAL AGENCIES AND COMMENTS:

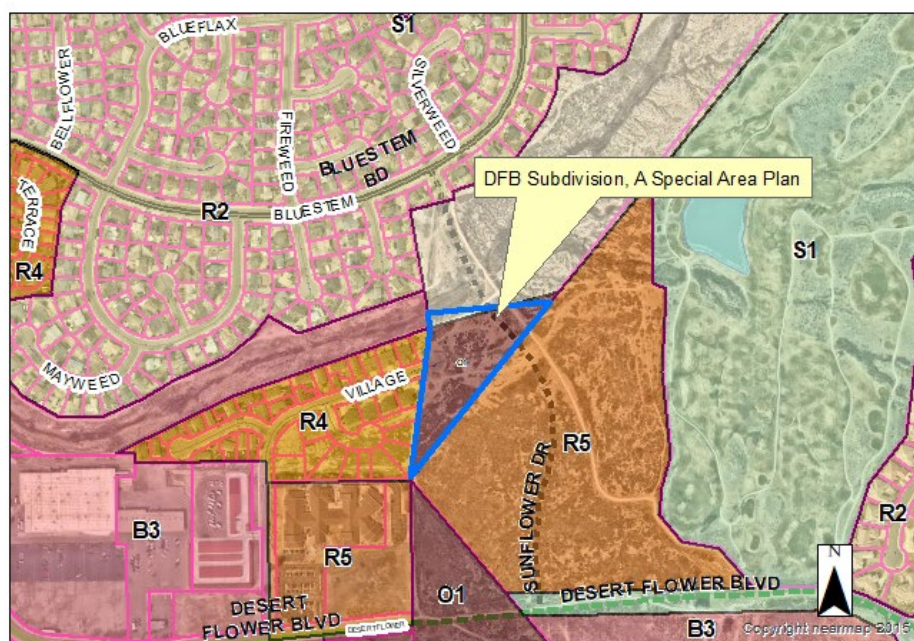
- City Public Works: Comments included in conditions
- City Transportation: No comment
- Pueblo Regional Building Department: No comment
- City Fire Department: No comment
- Pueblo Board of Water Works: No comment
- City Wastewater: No comment
- City Stormwater: No comment
- City Parks and Recreation Department: Comments included in conditions
- City GIS: No comment
- Xcel Energy: No comment
- Black Hills Energy: No comment
- CDOT: No comment
- Pueblo Board of Water Works: No comment

ATTACHMENTS:

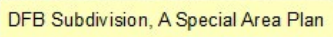
- A. Aerial Photograph
- B. Zoning Map
- C. Comprehensive Plan Map
- D. Site Photographs
- E. SRC Memo, June 7, 2023
- E. Subdivision (redlined)
- F. Amended University Park Master Plan, 1987
- G. Trail Exhibit



A. Aerial Photograph



B. Zoning Map



Copyright nearmap 2016

Attachment D. Site Photos



View looking north from the Village Cir. cul-de-sac.



View of the subdivision site looking south from the Village Cir. cul-de-sac.

Andrew Hayes
Director Public Works
Director
Transportation Department
Steven Meier
Director Parks & Recreation



Scott Hobson
Acting Director Planning &
Community Development
Executive Secretary of
Planning & Zoning
Commission

MEMORANDUM

To: Planning and Zoning Commission

From: Subdivision Review Committee

Date: June 7, 2023

Subject: S-22-14 and SAP-23-01 DFB Subdivision, A Special Area Plan

S-22-14 DFB, A Special Area Plan: The Subdivision Review Committee recommends the Planning and Zoning Commission forward a recommendation that the requested Subdivision be **APPROVED** with the following noted:

Requests for Modifications to Requirements:	None
Request for Deferred Filings	The applicant submitted a request for deferred filings
Plat Deficiencies:	None
Conditions of Approval (all conditions must be addressed prior to City Council review):	1. Show the existing five-foot utility easement and 10-foot-wide trail easement extending from the western boundary of Parcel A, through Lot 1, west along the northern property line to the western most property line of Lot 1, encompassing the existing improved trail. Please refer to Attachment G, Trail Exhibit 2. Remove Parcel references associated with previously dedicated Drainage Easements as shown in the attached redlined DFB Subdivision, A Special Area Plan. 3. Amend subtitle to reference University Park Subdivision, 17th Filing, A Special Area Plan 4. If the proposed Street Name Change of Sunflower Drive to Winecup Drive is not recommended for approval to City Council or not approved by City Council, the applicant must propose a new street name for the north/south street. The street name must be approved by City staff and PRBD before recording.

SAP-23-01 DFB Subdivision, a Special Area Plan: Staff recommends the Planning and Zoning Commission forward a recommendation that the requested Special Area Plan be Approved with the following condition. The condition must be addressed prior to City Council review and approval:

Conditions of Approval:	Include a note on the Special Area Plan plat that a 6-foot-tall opaque fence will be constructed along the northern property lines of Lots 1 and 2.
--------------------------------	---

SUBDIVISION APPLICATION**Attachments: Subdivision Submittal Checklist - Part I** ☒**Subdivision Submittal Checklist - Part II** ☐

DATE OF APPLICATION: NOVEMBER 7, 2022		
SUBDIVISION NAME: D F B SUBDIVISION		
PROPERTY OWNER: LE MOUTON NOIR, LLC UPARK APT, LLC		
ADDRESS: 925 W. KENYON AVENUE, SUITE 2, ENGLEWOOD, COLORADO 80110		
TELEPHONE: (719) 544-2732	FAX:	E-MAIL: tom@feketehomes.com
SUBDIVIDER (if different than property owner): SAME AS OWNER		
ADDRESS:		
TELEPHONE:	FAX:	E-MAIL:
ENGINEERING FIRM: CHRISMAN ENGINEERING, INC.		
ADDRESS: P.O. BOX 8564, PUEBLO, COLORADO 81008		
TELEPHONE: (719) 924-0012	FAX:	E-MAIL: john@chrismanengineering.com
PROFESSIONAL ENGINEER IN RESPONSIBLE CHARGE: JOHN D. CHRISMAN, P.E.		P.E. # 33838
SURVEYING FIRM: CLARK LAND SURVEYING, INC.		
ADDRESS: 177 S. TIFFANY DRIVE, PUEBLO WEST, COLORADO 81007		
TELEPHONE: (719) 633-8533	FAX:	E-MAIL: stewart@clarkls.com
PROFESSIONAL LAND SURVEYOR IN RESPONSIBLE CHARGE: STEWART L. MAPES, JR., PLS		P.L.S. # 38245

A Master Development Plan must be approved by the Planning & Zoning Commission prior to the submission of a subdivision plat for any tract of land that constitutes a part of a larger tract of land owned or controlled by the Subdivider 12-4-5 (a)(1) Municipal Code.

If the proposed subdivision includes a Special Area Plan, the applicant must meet with the Subdivision Review Committee prior to submittal of an application for Subdivision.

I hereby certify that I am the owner or acting as agent for the owner pursuant to a valid Power of Attorney from the owner of the property affected by this application for subdivision, that the information contained in the application documents is true and correct to the best of my knowledge, and that the professional consultants identified herein are hereby authorized to act on my behalf on all matters within their technical discipline pertaining to this application.

 Property Owner/Agent

DFB SUBDIVISION, A SPECIAL AREA PLAN

A RE-SUBDIVISION OF LOT 20, BLOCK 57, UNIVERSITY PARK SUBDIVISION,
THE PARCEL AS DESCRIBED IN WARRANTY DEED RECORDED UNDER REC. NO. 2164046,
AND A PORTION OF THE PARCEL AS DESCRIBED IN SPECIAL WARRANTY DEED RECORDED UNDER REC. NO. 1092326,
LYING WITHIN THE NE 1/4 OF SECTION 18, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M.
CITY AND COUNTY OF PUEBLO, STATE OF COLORADO

DEDICATION:

Know all men by these presents:
UPARK APT, LLC, A COLORADO LIMITED LIABILITY COMPANY and PUEBLO HOME DEVELOPMENT COMPANY, LLC, A COLORADO LIMITED LIABILITY COMPANY being the owners of the following described tracts of land to wit:

Parcel D, Rearrangement of Property Boundaries, Recorded as Reception No. 1281695,
County of Pueblo, State of Colorado, according to the recorded plat thereof;
The Parcel as described in Quit Claim Deed recorded under Reception No. 2298901;
and a portion of the parcel as described in Special Warranty Deed recorded under Reception No. 1092326

A parcel of land in the SE1/4 of the NE1/4 of Section 18, Township 20 South, Range 64 West of the 6th P.M., being more particularly described as follows:

BEGINNING at the southeast corner of Lot 9, Block 58, University Park Subdivision 17th Filing, according to the recorded plat thereof; thence N07°30'28"E, along the east line of said University Park Subdivision 17th Filing, a distance of 482.34 feet to the southeast corner of a Parcel D, Rearrangement of Property Boundaries, Recorded as Reception No. 1281695, of the Official Public Records of Pueblo County, Colorado; thence along the south line of said Parcel D, S70°54'51W, a distance of 36.97 feet to the southwest corner of said Parcel D; thence along the west line of said Parcel D, N19°12'46"W, a distance of 115.31 feet, to the northwest corner of said Parcel D; thence along the north line of said Parcel D, N70°47'17"E, a distance of 94.78 feet; thence N10°16'49"W, along the east line of said University Park Subdivision, 4th Filing, a distance of 60.85 feet; thence N87°13'36" E, a distance of 253.90 feet to the southwest corner of the 80' trail easement and right-of-way, described as Parcel A in Resolution 9539, dated February 8, 2002, of the Official Public Records of the City of Pueblo; thence along the west line of said Parcel A, for the following three (3) courses:

- N36°41'44"W, a distance of 225.65 feet;
- along the arc of a curve to the right, having a radius of 390.00 feet, a central angle of 22°43'57", a distance of 154.74 feet;
- N13°57'47"W, a distance of 100.80 feet,

to a point on the south right-of-way line of Sunflower Drive, as shown on University Park Subdivision 5th Filing, according to the recorded plat thereof; thence along said south right-of-way line, N76°05'13"E, a distance of 80.00 feet, to the northeast corner of said Parcel A; thence along the east line of said Parcel A, for the following three (3) courses:

- S13°57'47"E, a distance of 100.73 feet;
- along the arc of a curve to the left, having a radius of 310.00 feet, a central angle of 22°43'57", a distance of 122.99 feet;
- S36°41'44"E, a distance of 279.76 feet,

thence N87°22'43"E, a distance of 135.35 feet to the West Boundary Line of the University of Southern Colorado; thence S38°44'38"W, along said west line, a distance of 883.99 feet to the POINT OF BEGINNING, County of Pueblo, State of Colorado

Containing a calculated area of 202,116 square feet or 4.640 acres, more or less.

Has caused the foregoing described property to be surveyed, platted and subdivided into lots, blocks and parcels and has shown hereon certain easements for public utilities and pedestrians and the same to be numbered, platted, subdivided, dimensioned and named as shown on the annexed plat for the purpose of creating a subdivision to be known as "DFB SUBDIVISION, A SPECIAL AREA PLAN".

All of the streets and public utility and City easements shown hereon are hereby dedicated to the City for the perpetual use of the public. With respect to all easements for City utilities including but not limited to sanitary and stormwater services and whether designated as a drainage easement, public utility easement or otherwise hereon, the City of Pueblo shall have the right, without the necessity at any time of procuring the consent or permission of anyone, to remove any building, fence, tree, street or other improvement or growth located upon such easement that may in any way endanger or interfere with the construction, reconstruction, maintenance, inspection or removal of all or any parts of said City utilities and to recover the costs thereof, plus an administrative charge of 15% form the owner(s) of the lots or parcels upon which the easements are located.

All drainage facilities, sanitary sewer facilities, landscaping, and street improvements, including pavements, curbs, gutters, and sidewalks, which are located on easements or parcels shown hereon shall be installed, repaired and maintained in good working order and condition by the owners of all lots within this subdivision, subject to the terms and conditions of the Declaration of Covenants referenced hereon.

A formal environmental assessment for this subdivision has not been performed; however, to the best of the undersigned owner(s) knowledge, information, and belief, there are no known hazardous substances present within this subdivision.

Drainage facilities located within drainage easements shown hereon shall be installed, repaired, and maintained in good working order and condition by the owners of all lots within the subdivision. The City of Pueblo is hereby granted the right but not the obligation in its discretion to maintain, repair, or replace the drainage facilities within such easements and to recover the costs thereof, plus administrative expenses from said owner(s). All drainage easements shall be further subject to the Stormwater Facility Maintenance Agreement dated _____ and filed contemporaneously with the annexed plat.

All of the streets and public utility easements shown hereon are hereby dedicated to the public for perpetual use.

Parcel A is herein dedicated for the use of trails, public utilities, drainage, access, and as an erosion zone/no build area, and is to be owned and maintained by the City of Pueblo.

Parcel B in non-buildable and will be privately owned.

IN WITNESS WHEREOF:

The aforementioned, UPARK APT, LLC, A COLORADO LIMITED LIABILITY COMPANY, has executed this instrument

this _____ day of _____, 20____.

UPARK APT, LLC, A COLORADO LIMITED LIABILITY COMPANY.

By_____

As_____

NOTARIAL:

STATE OF _____ }
COUNTY OF _____ } SS

The above and aforementioned was acknowledged before me this _____ day of _____,

20____, by _____, as _____ for
UPARK APT, LLC, A COLORADO LIMITED LIABILITY COMPANY

Witness my hand and seal_____

Address _____

My Commission expires _____

IN WITNESS WHEREOF:

The aforementioned, PUEBLO HOME DEV CO LLC, A COLORADO LIMITED LIABILITY COMPANY, has executed this instrument

this _____ day of _____, 20____.

PUEBLO HOME DEV CO LLC, A COLORADO LIMITED LIABILITY COMPANY

By_____

As_____

NOTARIAL:

STATE OF _____ }
COUNTY OF _____ } SS

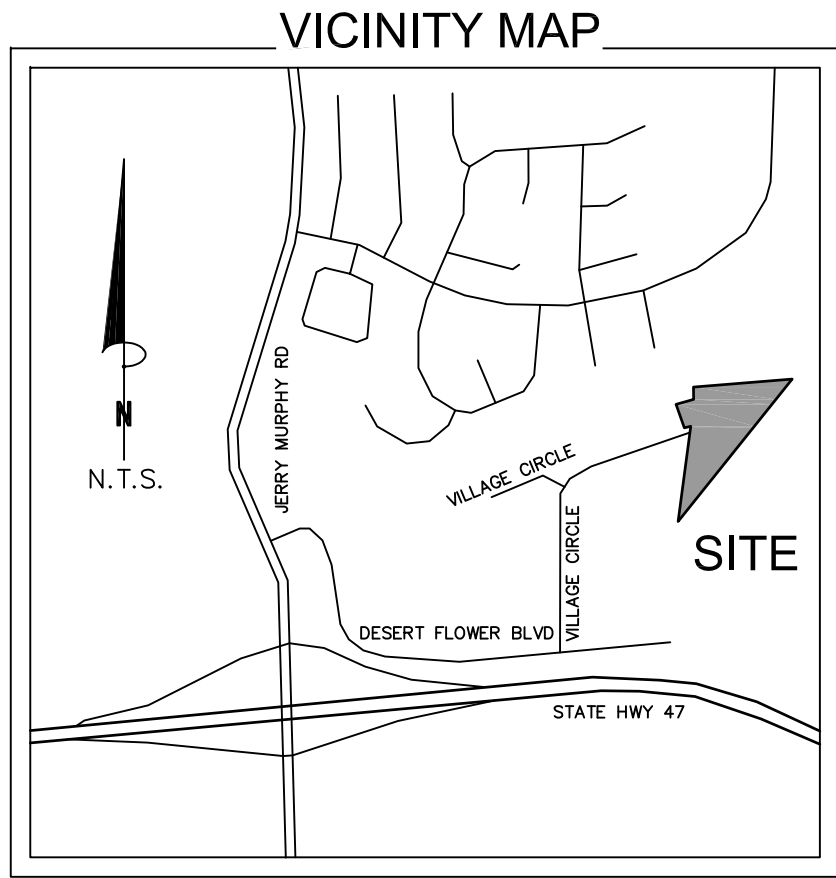
The above and aforementioned was acknowledged before me this _____ day of _____,

20____, by _____, as _____ for
PUEBLO HOME DEV CO LLC, A COLORADO LIMITED LIABILITY COMPANY.

Witness my hand and seal_____

Address _____

My Commission expires _____



NOTES:

- This survey does not constitute a title search by Clark Land Surveying, Inc. to determine ownership or easements of record. For all information regarding easements, rights-of-way and title of record, Clark Land Surveying, Inc. relied upon a Title Insurance Policy, prepared by Capstone Title, Commitment No. 222010, effective date November 30, 2022 at 8:00 A.M., and a Property Information Binder, prepared by Old Republic National Title Insurance Company, Policy No. PIB35062898.24559722, dated March 10, 2023.
- Basis of bearings is the south easterly line of the parcel described in that Warranty Deed recorded as Reception Number 2164046 on December 26, 2019 monumented on the northeast by a No. 5 rebar with a 1" yellow plastic cap, stamped "PLS 6128", flush with grade and on the southwest by No. 5 rebar with a 1" yellow plastic cap, stamped "PLS 6128", 0.2' above grade, measured to bear S38°50'09"W, a distance of 883.61 feet.
- The lineal units used in this drawing are U.S. Survey Feet.
- FEDERAL EMERGENCY MANAGEMENT AGENCY, FEMA FIRMeTte published October 15, 2020, referencing Flood Insurance Rate Map, Map Number 08101C0512D effective date August 15, 2019, indicates this parcel of land is located in Zone A (Without Base Flood Elevation) and Zone X (Area of minimal flood hazard).
- Field work for this survey was completed on October 12, 2020.

COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS:

The DFB Subdivision, A Special Area Plan, is a planned, community consisting of multi-family residential dwellings.

Refer to the: _____
DECLARATION OF COVENANTS CONDITIONS,
RESRICTIONS AND EASEMENTS FOR DFB SUBDIVISION

Reception No. _____, Dated _____

NOTICE:

Notice is hereby given that acceptance of the platted subdivision by the City of Pueblo, does not constitute an acceptance of the dedicated public roads, parks and other public improvements for maintenance by the city. Until such dedicated public roads, other parks, and public improvements meet the requirements, standards, and specifications of the City, its subdivision ordinance and where appropriate, its Park's Department specifications, and such are specifically approved and accepted in writing by the City Director of Public Works and where applicable, the City Director of Parks and Recreation, the maintenance, construction and all other matters pertaining to or affecting and dedicated public roads, park and other public improvements and Rights-Of-Way are the sole responsibility of the subdivider or any subsequent Owner(s) of the land within the subdivision. City does not accept the private roads, easements and facilities dedicated hereon, nor shall the City be obligated to maintain, construct or repair such private road, easements and facilities.

PLANNING COMMISSION CERTIFICATION:

This is to certify that this subdivision was approved by the Planning Commission of the City of Pueblo, County of Pueblo, State of Colorado.

Chairperson, Planning Commission _____ Date _____

CERTIFICATION BY CITY CLERK:

Approval of Recording _____

Approved by the City Council of Pueblo, Colorado by Ordinance No. _____. This is to certify that the plat of "DFB SUBDIVISION, A SPECIAL AREA PLAN" has been approved for recording in the office of the County Clerk of the County of Pueblo, State of Colorado.

City Clerk _____ Date _____

IMPROVEMENT CERTIFICATION:

This is to certify that the subdivider has complied with alternate No. 4 of Section 12-4-7(J)(1) and Section 12-4-5(b), of 1971 Code of Ordinances, City of Pueblo County of Pueblo, State of Colorado.

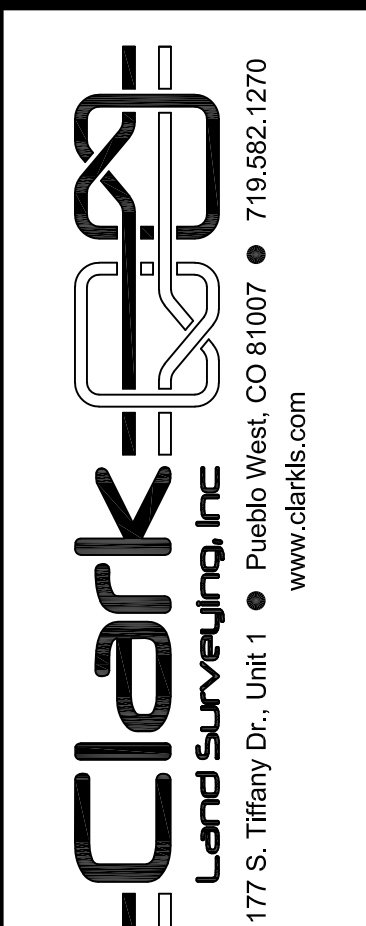
Director of Public Works _____ Date _____

SURVEYOR'S CERTIFICATION:

The undersigned Colorado Registered Professional Land Surveyor does hereby certify that the accompanying plat was surveyed and drawn under his direct responsibility and supervision and to the normal standard of practice by surveyors in the State of Colorado and accurately shows the described tract of land thereof, and that the requirements of Title 38 of the Colorado Revised Statutes, 1973, as amended, have been met to the best of his professional knowledge, belief and opinion.

This statement is neither a warranty nor guarantee, either expressed or implied.

Stewart L. Mapes, Jr.
Colorado Professional Land Surveyor No. 38245
For and on behalf of Clark Land Surveying, Inc.



Revisions	Description	By	Date
No.			

Notice: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

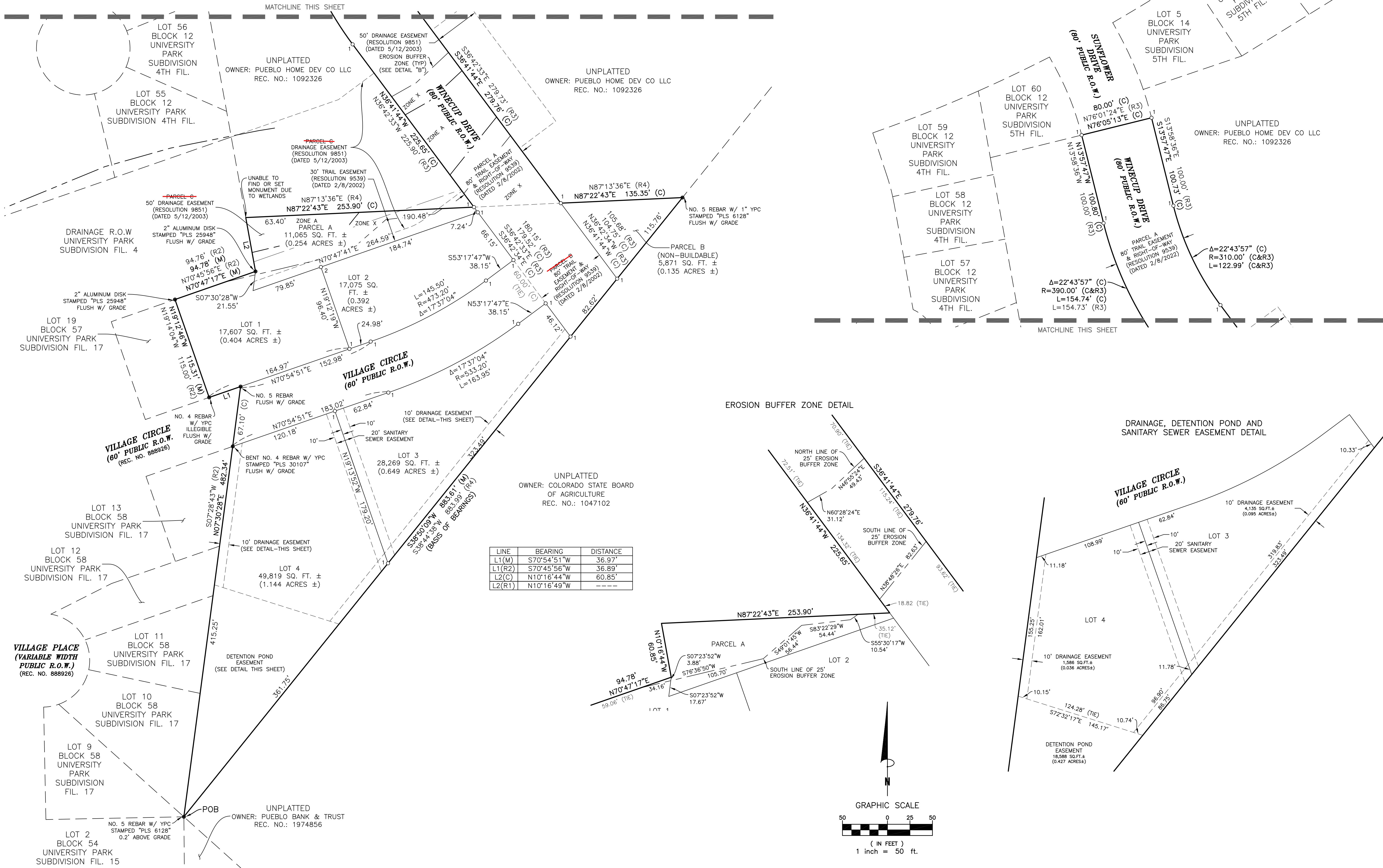
DFB SUBDIVISION, A SPECIAL AREA PLAN

A PORTION OF THE NE1/4 OF SECTION 18,
TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE SIXTH P.M.,
CITY AND COUNTY OF PUEBLO, COLORADO

Project No. 200975
Drawn By: EUC
Checked By: SLW
Date: 6/22/2021
Sheet 1 of 2

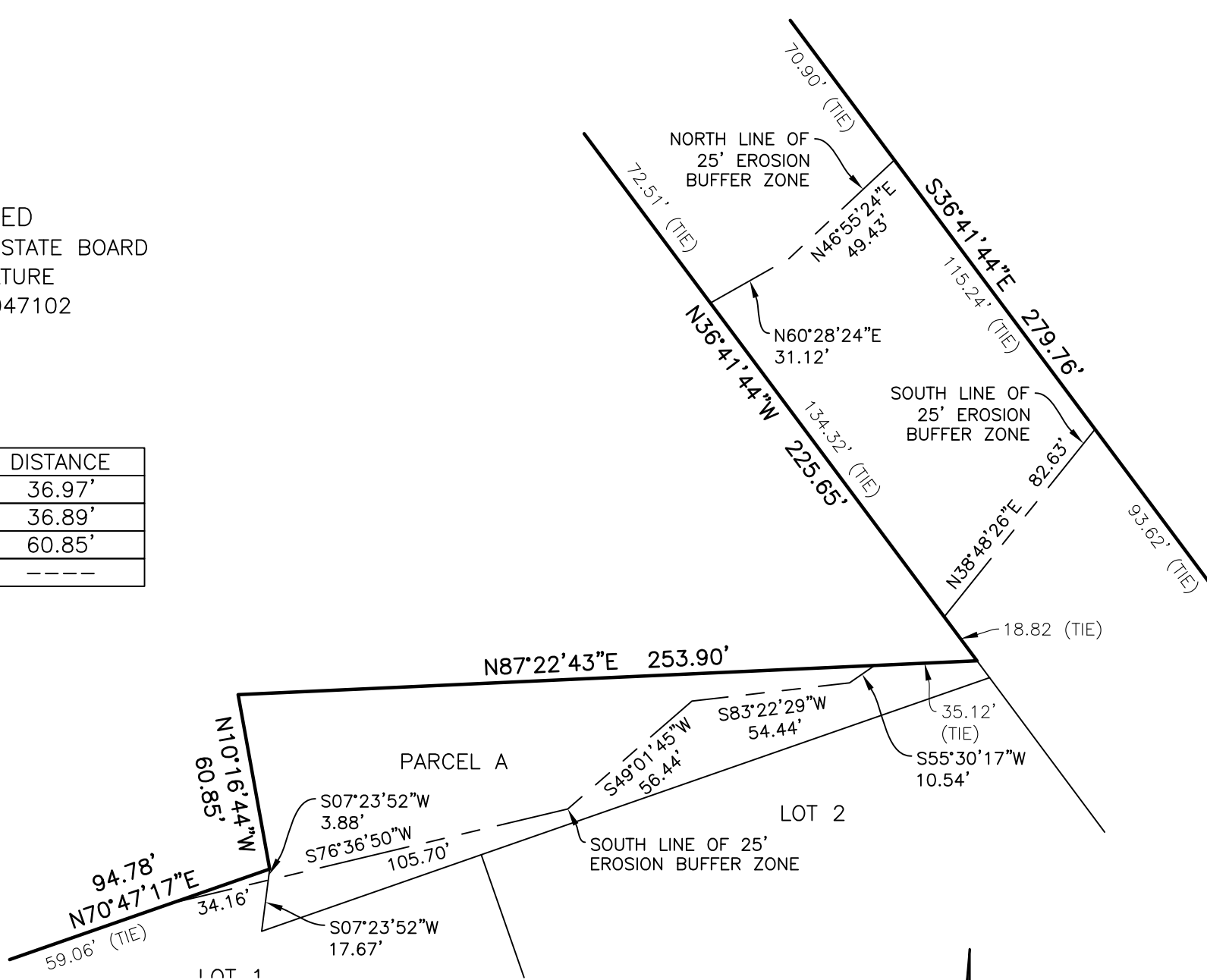
DFB SUBDIVISION, A SPECIAL AREA PLAN

A RE-SUBDIVISION OF LOT 20, BLOCK 57, UNIVERSITY PARK SUBDIVISION,
THE PARCEL AS DESCRIBED IN WARRANTY DEED RECORDED UNDER REC. NO. 2164046,
AND A PORTION OF THE PARCEL AS DESCRIBED IN SPECIAL WARRANTY DEED RECORDED UNDER REC. NO. 1092326,
LYING WITHIN THE NE 1/4 OF SECTION 18, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M.
CITY AND COUNTY OF PUEBLO, STATE OF COLORADO

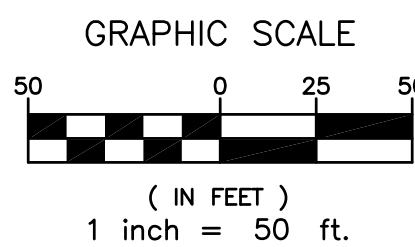
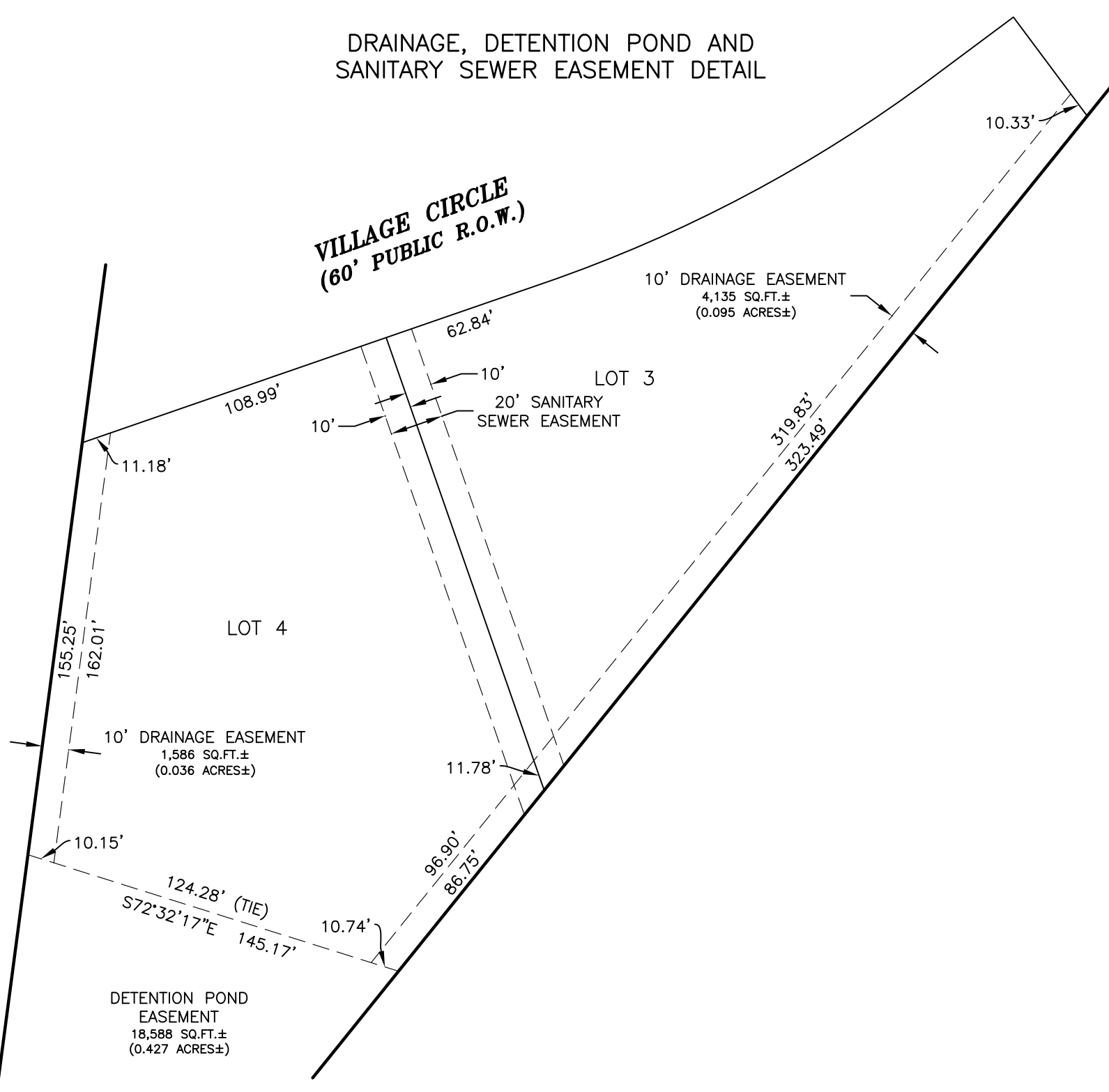


LINE	BEARING	DISTANCE
L1(M)	S70°54'51"W	36.97'
L1(R2)	S70°45'56"W	36.89'
L2(C)	N10°16'44"W	60.85'
L2(R1)	N10°16'49"W	---

EROSION BUFFER ZONE DETAIL



DRAINAGE, DETENTION POND AND SANITARY SEWER EASEMENT DETAIL



No.	Revisions	Description	By	Date

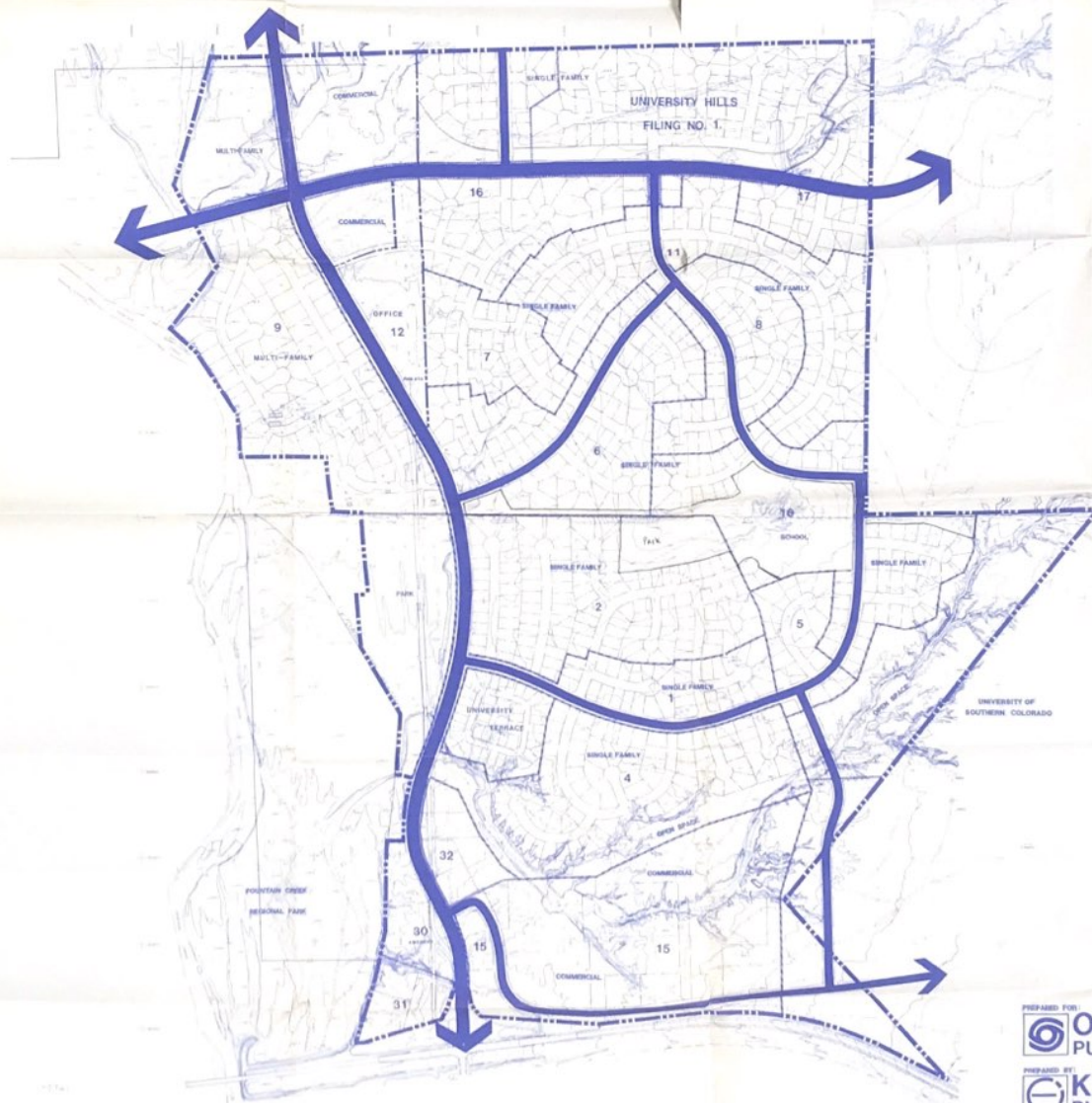
Notice: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

Project No.	200975	Drawn By: EUC	Date: 6/22/2021
		Checked By: SLW	Sheet 2 of 2

Clark
Land Surveying, Inc.
177 S. Tiffany Dr., Unit 1
Pueblo West, CO 81007 • 719.582.1270
www.clarksls.com

DFB SUBDIVISION, A SPECIAL AREA PLAN
A PORTION OF THE NE1/4 OF SECTION 18,
TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE SIXTH P.M.,
CITY AND COUNTY OF PUEBLO, COLORADO

-AMENDED- UNIVERSITY PARK • MASTER PLAN PUEBLO, COLORADO.



SCALE 1"=200'

SUMMARY CHART

	ACREAGE	PERCENTAGE
SINGLE FAMILY		
MULTI - FAMILY		
SCHOOL		
PARK & OPEN SPACE		
PUBLIC/SEMI - PUBLIC		
COMMERCIAL		
OFFICE		
TOTAL		100 %

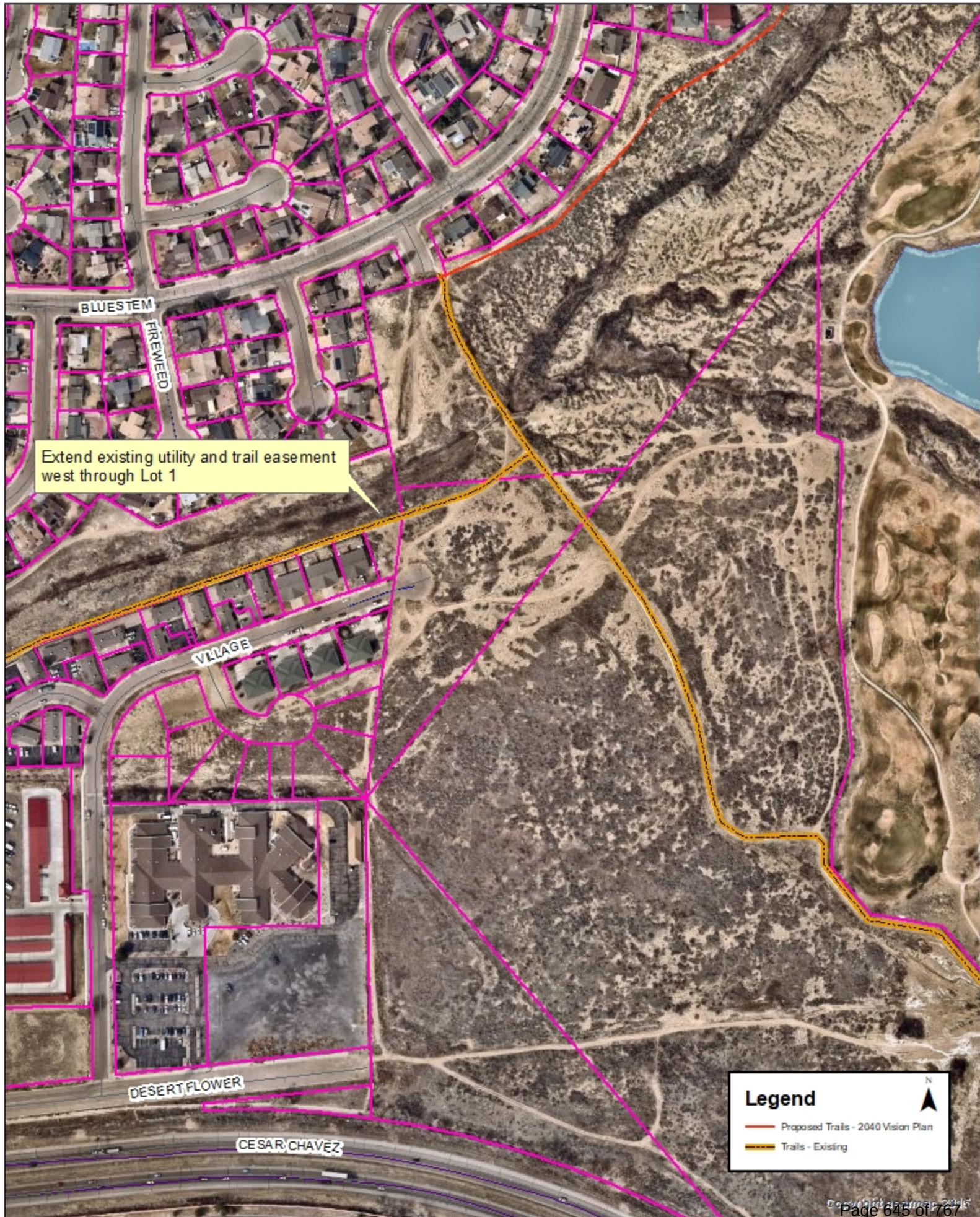
APPROVED BY:
THE PLANNING AND ZONING COMMISSION
OF THE CITY OF PUEBLO
ON 2/12/86.

PREPARED FOR:
OTERO INVESTMENTS
PUEBLO, CO.

PREPARED BY:
KLH ENGINEERING CONSULTANTS INC.
PUEBLO / COLORADO SPRINGS, CO.

DATE	BY	CHECKED	APPROVED
1/1/86	JLH	JLH	JLH

Trail Easement Exhibit



May 30, 2023

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **John Chrisman, for Le Mouton Noir LLC** for approval of the following application(s):

Z-22-20 Rezoning: Rezone approximately 3.74 acres from O-1, Neighborhood Office District to R-4, Mixed Residential District. Generally located east of the Village Cir. Terminus.
S-22-14 Subdivision and SAP-23-01: DFB Subdivision, subdivision of 3.736 acres into five multifamily residential lots. Generally located east of the Village Cir. Terminus.

The Planning and Zoning Commission meeting will be held on June 14, 2023, at 3:30 p.m., in City Council Chambers, 1 City Hall Place, Pueblo, CO or by Zoom: <https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGbnlCdHRrUHNfZnpPWGIYdz09>, Meeting ID: 927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston). You are welcome to attend this public hearing and express your viewpoint concerning this proposal. To review the plans and staff report for the proposed application, please visit www.pueblo.us/PandZ and click on “Most Recent Agenda” no sooner than the Friday prior to the hearing. **Please contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

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Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

CASE NUMBER: S-22-14

CERTIFICATION

I hereby certify that I did this day cause written notice of the public hearing on the proposed final plat of the property commonly known as DFB Subdivision 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 final plat 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.

5/30/2023

(Date)

PUEBLO PLANNING & ZONING COMMISSION

By Cindy Caputo

Owner	OwnerStree	OwnerCity	Own
UPARK APT LLC	1307 FORTINO BLVD STE D	PUEBLO	CO
FEKETE HOMES INC	1307 FORTINO BLVD STE D	PUEBLO	CO
WALKING STICK 5 LLC	14185 W 7TH AVE	GOLDEN	CO
PUEBLO HOME DEV CO LLC + C/O BARBAR	1825 N GRAND AVE	PUEBLO	CO
COLORADO STATE BOARD OF AG + ATTN:	2200 BONFORTE BLVD	PUEBLO	CO
JAGD SUSAN M + JAGD ALLAN R	3 WOODSORREL CT	PUEBLO	CO
PUEBLO MEDICAL INVESTORS LTD + C/O L	3001 KEITH ST NW	CLEVELAND	TN
UNIVERSITY PARK REAL ESTATE + INVESTC	3001 KEITH ST NW	CLEVELAND	TN
PRESS PROPERTIES LLC + C/O MARK SWAN	345 STEELE ST	DENVER	CO
GOLDEN RULE PROPERTIES	36038 SOUTH RD	PUEBLO	CO
MORGAN SHAWN M/CRUZ PAULETTE F	4 WOODSORREL CT	PUEBLO	CO
ATKINSON TRACY	4429 PORTA FINA DR	PUEBLO	CO
COZZOLINO KEVIN P/COZZOLINO DEANN	5 WOODSORREL CT	PUEBLO	CO
GRADISHAR CINDY ANN	6 WOODSORREL CT	PUEBLO	CO
HAASE BRUCE JR	7 FIREWEED CT	PUEBLO	CO
CHOSICH MICHAEL/CHOSICH GRETA SUE	7 WOODSORREL CT	PUEBLO	CO
BURGESS RICHARD JOHN / SPINUZZI P	8 FIREWOOD CT	PUEBLO	CO
ZINANTI MARK M/ZINANTI JEHAN L	8 WOODSORREL CT	PUEBLO	CO
UNIVERSITY VILLAGE PARTNERSHIP	814 VILLAGE CT APT A	PUEBLO	CO
UPARK APT, LLC	925 W KENYON AVE STE 2	ENGLEWOOD	CO
BUSTOS ROBERT B /ORTIZ BUSTOS LOR	941 VILLAGE CIR APT A	PUEBLO	CO

OwnerZip

81008-2032

81008-2032

80401-4508

81003-2634

81001-4901

81001-1120

37312-3713

37312-3713

80206-4414

81006-9343

81001-1120

81001-1096

81001-1120

81001-1120

81001-1111

81001-1120

81001

81001-1120

81001-5117

80110-3471

81001-1183



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 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 APPROVING THE MEDAL OF HONOR SUBDIVISION

SUMMARY:

The applicant is requesting to subdivide the recently annexed Pueblo County Detention Center area, 69.9-acres, into one lot for development of the Pueblo County Detention Center and two non-buildable parcels reserved for future subdivision and development.

PREVIOUS COUNCIL ACTION:

City Council approved Ordinance 10453 on May 8, 2023 which approved the annexation of 69.9-acres of unincorporated land commonly known as the Pueblo County Detention Center Annexation to the City of Pueblo.

City Council Approved Ordinance 10494 on June 26, 2023 rezoning the recently annexed 69.9-acre Pueblo County Detention Center property from a Pueblo County A-1 to a City of Pueblo S-1, Government Use Zone District (25.47 acres), and from a Pueblo County A-1 and R-6 to a City Of Pueblo A-1, Agricultural One Zone District (44.44 acres).

BACKGROUND:

The subject property was annexed into the City in May 2023, to facilitate development of the new Pueblo County Detention Center. The property is located west of the intersection of West 24th Street and Pueblo Boulevard (SH45). The subdivision establishes Lot 1, 25.467-acres, south of the proposed Medal of Honor Boulevard, and west of the proposed local street right-of-way, Justice Road. The new Pueblo County Detention Center will be constructed on Lot 1. The subdivision also includes two additional non-buildable parcels, Parcel A (20.719-acres) and Parcel B (15.047-acres) that are reserved for future re-subdivision and development. Parcel A will contain a drainage easement and Parcel B will contain a Lift Station Easement. The Medal of Honor Subdivision creates the 150-foot-wide Medal of Honor right-of-way, which will intersect with Pueblo Boulevard, directly west of the 24th Street and will extend west

through the subdivision conforming with the Pueblo Area Council of Governments (PACOG) Long Range Transportation plan for the principal arterial extension into Pueblo West. An access permit will need to be secured from Colorado Department of Transportation by Pueblo County for the Medal of Honor connection to Pueblo Boulevard (SH 45). Water and wastewater service lines will be installed within the right-of-way of Medal of Honor Boulevard providing service to the County Detention Center and will serve Parcel A and Parcel B upon re-subdivision and future development. The subdivision also includes a 60-foot-wide local roadway, Justice Road, that extends south from the proposed Medal of Honor Boulevard directly adjacent to the eastern property line of the proposed Lot 1. Justice Road will provide ingress/egress to a future City owned and maintained parking lot serving the Honor Farm Park and Open Space property and will provide access point(s) to the future re-subdivided Parcel B. Future re-subdivision of Parcel A will require Justice Road to be platted and extended north through Parcel A as shown in the PACOG Long Range Transportation Plan.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their June 14, 2023 Regular Meeting, voted 7-0 to recommend approval.

STAKEHOLDER PROCESS:

The Planning Department sent out Notice of the Planning and Zoning Commission Public Hearing to all property owners located within 300 feet of the subject property.

ALTERNATIVES:

If City Council does not approve this Ordinance, the site will not be resubdivided which will impede development of the site.

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. S-23-05 Attachments

ORDINANCE NO. 10523

AN ORDINANCE APPROVING THE MEDAL OF HONOR
SUBDIVISION

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

SECTION 1.

The final plat of the Medal of Honor Subdivision, being a subdivision of land legally described as:

A PORTION OF 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 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 1319.21 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH HALF OF SAID SOUTHEAST QUARTER; THENCE S 89°21'12" W, ALONG SAID SOUTH LINE, A DISTANCE OF 964.40 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER; THENCE S 89°20'51" W, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER, A DISTANCE OF 1318.28 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER; THENCE N 00°36'13" W, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER, A DISTANCE OF 1320.37 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE N 89°24'14" E, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 2333.69 FEET TO THE POINT OF BEGINNING.

CONTAINING 69.906 ACRES, MORE OR LESS.

attached hereto, is hereby approved. All dedicated streets, utility and drainage easements, rights-of-way and land set aside for public sites, parks and open spaces shown and dedicated on said plat are hereby accepted for public use.

SECTION 2.

The acceptance of such dedicated streets, rights-of-way, utility and drainage easements, public sites, parks and open spaces by the City does not obligate the City to maintain or repair same until such streets, rights-of-way, utility and drainage easements, public sites, parks and open spaces have been constructed and installed in compliance and in accordance with the requirements and provisions of Chapter 4, Title XII of the Pueblo Municipal Code, as amended and any agreement entered into pursuant thereto.

SECTION 3.

Neither the adoption of this Ordinance nor the requirements imposed hereby shall create any duty or obligation of any person, firm, corporation or other entity with regard to the enforcement or nonenforcement of this Ordinance or the City's Subdivision Ordinances and regulations. No person, firm, corporation or other entity shall have any private right of action, claim or demand against the City or its officers, employees or agents, for any injury, damage or liability arising out of or in any way connected with the adoption, enforcement, or nonenforcement of this Ordinance or the Subdivision Ordinance and Regulations of the City, or the engineering, surveying, drainage improvement or other work or improvements required thereby. Nothing in this Ordinance or in the City's subdivision Ordinances and regulations shall create or be construed to create any claim, demand or liability against the City or its officers, employees or agents, or to waive any of the immunities, limitations on liability, or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101, et seq. Colorado Revised Statutes, or to waive any immunities or limitations on liability otherwise available to the City or its officers, employees or agents.

SECTION 4.

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 5.

This Ordinance shall be approved upon final passage but shall not become effective until: (a) all information, documents, drawings, profiles, and plat required by Chapter 4 of Title XII of the Pueblo Municipal Code meeting and complying with the subdivision requirements of the City with such modifications, if any, approved by City Council, have been filed with and approved by the Director of Public Works, and (b) the final subdivision plat is recorded in the office of the Pueblo County Clerk and Recorder. If any such filings and approvals have been deferred pursuant to Section 12-4-5(b)(2) of the Pueblo Municipal Code and are not for any reason filed and approved within one (1) year after final passage of this Ordinance, or within any extended period granted by Resolution of the City Council, this Ordinance shall automatically be rescinded and repealed thirty (30) days after written notice of such rescission and repeal is given to the Subdivider. No vested rights shall accrue to the subdivision or be acquired until this Ordinance becomes effective.

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 July 24, 2023.

Final adoption of Ordinance by City Council on August 14, 2023.



President of City Council

Action by the Mayor:

☒ Approved on August 17, 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

MEDAL OF HONOR SUBDIVISION

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

LEGAL DESCRIPTION AND DEDICATION:

KNOW ALL MEN BY THESE PRESENTS THAT _____, AND
_____ BEING THE SOLE OWNERS OF THE FOLLOWING PROPERTY:

A PARCEL OF LAND LOCATED 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 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, 0°0'36"45"W, ALONG SAID WEST LINE, A DISTANCE OF 1319.21 FEET TO A POINT ON THE
WEST LINE OF THE NORTH HALF OF SAID SOUTHEAST QUARTER;
THENCE S 89°21'12"W, ALONG SAID SOUTH LINE, A DISTANCE OF 964.40 FEET TO THE SOUTHEAST
CORNER OF THE NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER;
THENCE S 89°20'51"W, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SOUTHEAST
QUARTER, A DISTANCE OF 1318.28 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF
SAID SOUTHEAST QUARTER;
THENCE N 00°00'00"W, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SOUTHEAST
QUARTER, A DISTANCE OF 1320.37 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER;
THENCE N 89°24'14"E, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF
2333.69 FEET TO THE POINT OF BEGINNING.

CONTAINING 69.906 ACRES, MORE OR LESS.

HAVE CAUSED THE AFOREGOING DESCRIBED PROPERTY TO BE SURVEYED, PLATTED AND SUBDIVIDED INTO PARCELS, THE SAME TO BE NUMBERED, PLATTED, SUBDIVIDED, DIMENSIONED AS SHOWN ON THE ANNEXED PLAT, FOR THE PURPOSE OF CREATING A SUBDIVISION TO BE KNOWN AS MEDAL OF HONOR BLVD SUBDIVISION

PARCELS A AND B ARE HEREBY RESERVED FOR FUTURE SUBDIVISION AND DEVELOPMENT.

ALL OF THE PROPERTY SHOWN ON THIS PLAT IS SUBJECT TO THE TERMS AND CONDITIONS DEFINED AND DESCRIBED IN THE DECLARATION OF COVENANTS _____, AND RECORDED IN THE OFFICE OF THE CLERK AND RECORDER OF PUEBLO COUNTY, COLORADO.

IN WITNESS WHEREOF, _____, _____, SETS HIS HAND AND
SEAL THIS DAY _____ OF _____, 2023A.D.:

PUEBLO COUNTY, A BODY CORPORATE AND POLITICAL SUBDIVISION OF THE STATE OF COLORADO

BY: _____

AS: _____

STATE OF COLORADO)
)SS
COUNTY OF PUEBLO)

_____, A NOTARY PUBLIC IN AND FOR THE COUNTY OF PUEBLO, STATE OF
 _____, COLORADO, DO HEREBY CERTIFY THAT _____
 _____, WHO IS PERSONALLY KNOWN TO ME TO BE THE IDENTICAL PERSON WHO SIGNED THE AFORESAID
 _____, DEDICATION, APPEARED BEFORE ME THIS DAY IN PERSON AND ACKNOWLEDGED THE EXECUTION
 _____, THEREOF TO BE HIS FREE AND VOLUNTARY ACT FOR THE USES AND PURPOSES THEREIN SET FORTH
 _____, AS THE DEED OF SAID ENTITY.

WITNESS MY HAND AND NOSTRIL SEAL THIS THIS _____ DAY OF _____, AD, 20__ A.D.:

MY COMMISSION EXPIRES: _____

NOTARY PUBLIC: _____

DATE: _____

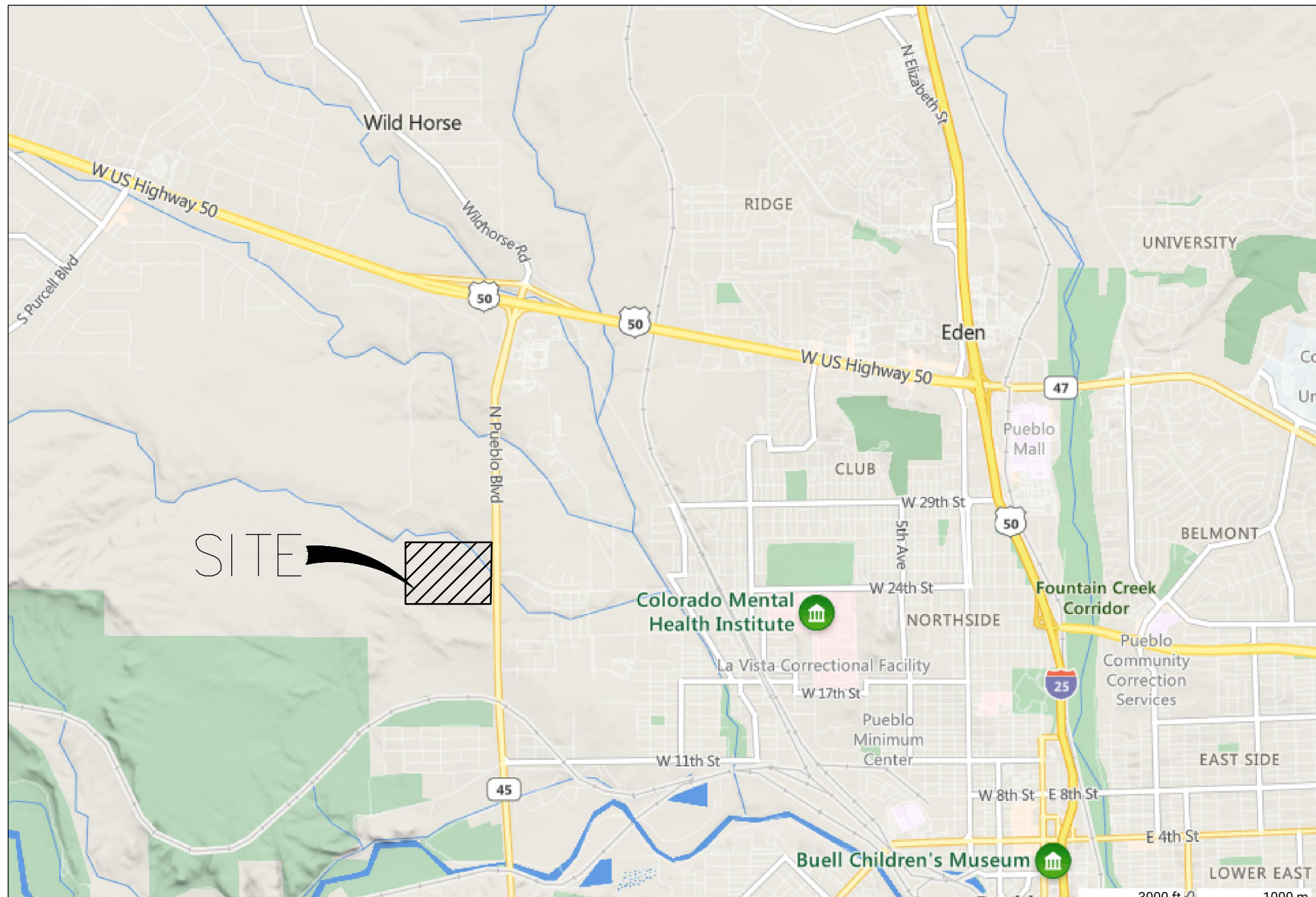
SURVEYOR'S CERTIFICATE:

THIS IS TO CERTIFY THAT WE HAVE PREPARED THE ANNEXED PLAT AND THAT IT COMPLIES WITH THE MINIMUM STANDARDS FOR LAND SURVEY PLATS AS SET FORTH IN SECTION 38—51—106 ET. SEQ., C.R.S. 1994 (AS AMENDED). WE HAVE PERFORMED THE ACCOMPANYING SURVEY AND IT WAS CONDUCTED BY ME OR UNDER MY RESPONSIBLE CHARGE. ALL LINES AND DIMENSIONS ARE CORRECTLY SHOWN HEREON TO THE BEST OF MY KNOWLEDGE AND BELIEF.

MICHAEL J. LINDQUIST, P.L.S. 38666
900 S. BROADWAY, SUITE 220
DENVER, CO 80209

"ALL OF THE STREETS AND PUBLIC UTILITY AND CITY EASEMENTS SHOWN HEREON ARE HEREBY DEDICATED TO THE CITY FOR THE PERPETUAL USE OF THE PUBLIC, WITH RESPECT TO ALL EASEMENTS FOR CITY UTILITIES INCLUDING BUT NOT LIMITED TO SANITARY AND STORMWATER SERVICES, AND WHETHER DESIGNATED AS A DEDICATED EASEMENT, A PUBLIC EASEMENT, OR OTHERWISE, HEREON, THE CITY SHALL HAVE THE RIGHT, WITHOUT THE NECESSITY AT ANY TIME OF PROCURING THE CONSENT OR PERMISSION OF ANYONE, TO REMOVE ANY BUILDING, FENCE, TREE, STREET OR OTHER IMPROVEMENT OR GROWTH LOCATED UPON SUCH EASEMENTS THAT MAY IN ANY WAY ENDANGER OR INTERFERE WITH THE CONSTRUCTION, RECONSTRUCTION, MAINTENANCE AND REMOVAL OF ANY SUCH CITY UTILITIES OR PUBLIC INFRASTRUCTURE. THE CITY SHALL BE RESPONSIBLE FOR THE COSTS THEREOF, PLUS AN ADMINISTRATIVE CHARGE OF 15% FROM THE OWNER(S) OF THE LOTS OR PARCELS UPON WHICH THE EASEMENTS ARE LOCATED."

"DRAINAGE FACILITIES LOCATED WITHIN DRAINAGE EASEMENTS SHOWN HEREON SHALL BE INSTALLED, REPAIRED, AND MAINTAINED IN GOOD WORKING ORDER AND CONDITION BY THE OWNERS OF ALL LOTS WITHIN THE SUBDIVISION. THE CITY OF PUEBLO IS HEREBY GRANTED THE RIGHT BUT NOT THE OBLIGATION IN ITS DISCRETION TO MAINTAIN, REPAIR, OR REPLACE THE DRAINAGE FACILITIES WITHIN SUCH EASEMENTS AND TO RECOVER THE COSTS THEREOF, PLUS ADMINISTRATIVE EXPENSES FROM SAID OWNER(S). ALL DRAINAGE EASEMENTS SHALL BE FURTHER SUBJECT TO THE STORMWATER FACILITY MAINTENANCE AGREEMENT DATED _____ AND FILED CONTEMPORANEOUSLY WITH THE ANNEXED PLAT"



VICINITY MAP
NOT TO SCALE

GENERAL NOTES

1. NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU DISCOVER SUCH DEFECT. IN NO EVENT MAY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE CERTIFICATION SHOWN HEREON.

2. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY WILSON & COMPANY TO DETERMINE TITLE OR EASEMENTS OF RECORD. RESEARCH FOR THIS SURVEY WAS PERFORMED IN ACCORDANCE WITH CRS 38-51-106 AND THE RULES OF PROCEDURE AND BOARD POLICY STATEMENTS OF THE STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS, SPECIFICALLY THOSE BOARD RULES AND POLICY STATEMENTS RELATING TO THE REJECTION OF EASEMENTS OF RECORD. THIS SURVEY IS SUBJECT TO THE COMMITMENT NUMBER CO-FCIV-IMP-27306-1-22-NO38887, EFFECTIVE DATE JUNE 30, 2022, PREPARED BY FIDELITY NATIONAL TITLE INSURANCE COMPANY WAS RELIED UPON FOR ALL INFORMATION REGARDING EASEMENTS OF RECORD, RIGHTS OF WAY, TITLE OF RECORD AND CIVIL COURT ACTIONS OF RECORD.

3. BASIS OF BEARINGS: BEARINGS USED HEREON ARE BASED ON THE EAST LINE OF THE SOUTHEAST 1/4 OF SECTION 21, BEING SSOO°33'34"E, NAD83 COLORADO SOUTH ZONE GRID BEARING, 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. TRACT A AND TRACT B ARE NON-BUILDABLE PARCELS.

NOTICE

NOTICE IS HEREBY GIVEN THAT ACCEPTANCE OF THIS PLATTED SUBDIVISION BY THE CITY OF PUEBLO DOES NOT CONSTITUTE AN ACCEPTANCE OF THE DEDICATED PUBLIC ROADS, PARK, AND OTHER PUBLIC IMPROVEMENTS FOR MAINTENANCE BY THE CITY. UNTIL SUCH DEDICATED PUBLIC ROADS, PARKS AND OTHER PUBLIC IMPROVEMENTS MEET THE REQUIREMENTS, STANDARDS, AND SPECIFICATIONS OF THE CITY, ITS SUBDIVISION ORDINANCE, AND WHERE APPROPRIATE, ITS PARKS DEPARTMENT SPECIFICATIONS, AND SUCH ARE SPECIFICALLY APPROVED AND ACCEPTED IN WRITING BY THE CITY DIRECTOR OF PUBLIC WORKS AND WHERE APPLICABLE, THE CITY DIRECTOR OF PARKS AND RECREATION, THE MAINTENANCE, CONSTRUCTION AND ALL OTHER MATTERS PERTAINING TO OR AFFECTING SAID DEDICATED PUBLIC ROADS, PARK AND OTHER PUBLIC IMPROVEMENTS AND RIGHTS-OF-WAY ARE THE SOLE RESPONSIBILITY OF THE SUBDIVIDER OR ANY SUBSEQUENT OWNER(S) OF THE LAND WITHIN THIS SUBDIVISION. CITY DOES NOT ACCEPT ANY PRIVATE ROADS, EASEMENTS, OR FACILITIES THAT MAY BE DEDICATED HEREON, NOR SHALL THE CITY BE OBLIGATED TO MAINTAIN, CONSTRUCT, OR REPAIR SUCH PRIVATE ROADS, EASEMENTS, AND FACILITIES.

IMPROVEMENTS CERTIFICATION

THIS IS TO CERTIFY THAT THE SUBDIVIDER HAS COMPLIED WITH ALTERNATE NO. _____ OF SECTION 12-4-7 (J)(1) AND WITH SECTION 12-4-5 (B), OF THE 1971 CODE OF ORDINANCES, CITY OF PUEBLO, COUNTY OF PUEBLO, STATE OF COLORADO.

DIRECTOR OF PUBLIC WORKS

DATE _____

PLANNING COMMISSION CERTIFICATION

THIS IS TO CERTIFY THAT THIS SUBDIVISION WAS APPROVED BY THE PLANNING COMMISSION
OF THE CITY OF PUEBLO, COUNTY OF PUEBLO, STATE OF COLORADO.

CHAIRPERSON PLANNING COMMISSION DATE

APPROVAL FOR RECORDING

APPROVED BY CITY COUNCIL OF PUEBLO, COLORADO BY ORDINANCE NO. _____

THIS IS TO CERTIFY THAT THE PLAT OF (INSERT FULL NAME OF SUBDIVISION) HAS BEEN APPROVED FOR RECORDING IN THE OFFICE OF THE PUEBLO COUNTY CLERK AND RECORDER OF PUEBLO COUNTY, COLORADO.

CITY CLERK _____ DATE _____

ALL SEALS FOR THIS DOCUMENT ARE APPLIED TO THE COVER PAGE						SHT. NO.		1 OF 2		 1900 South Broadway Suite 220 Denver, CO 80202 Phone: 303-297-2076 Fax: 303-297-2693	
						SCALE:		1"=100'			
DWN BY:		TJB		DATE:		3-31-2023		JOB NO.:		21-100-147	
CHK. BY:		TJB		DATE:		3-31-2023		MEDAL OF HONOR SUBDIVISION CITY OF PEBBLE COUNTY OF PUEBLO, STATE OF COLORADO			
PROJ. MGR.		MUL		DATE:		3-31-2023					
CUMENT APP:											
DT	CITY COMMENTS					TJB	5/3/23	M.JL	5/3/23		
NO.	REVISION-DESCRIPTION					BY	DATE	CHCKD	APPD		

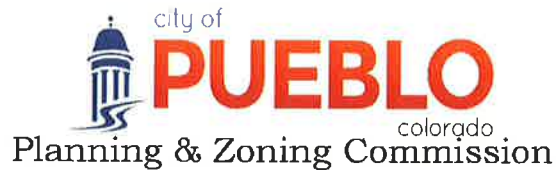
LOCATED IN THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 20 SOUTH, RANGE 65 WEST, OF THE
SIXTH PRINCIPAL MERIDIAN, COUNTY OF PUEBLO, STATE OF COLORADO



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, June 14, 2023 – 3:30 p.m.
City Council Chambers, 1 City Hall Place

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

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

Commissioners Absent: None

Staff Members Present: Trevor Gloss, Assistant City Attorney; Beritt Odom, Principal Planner; Bart Mikitowicz Senior Planner, and Cindy Capritta, Land Use Technician.

Staff Members Absent: Scott Hobson, Acting Director for Development of Planning and Community Development.

APPROVAL OF THE AGENDA: Bailey moved to approve the May 10, 2023, agenda, seconded by, Avalos.

Motion Passed: 7-0

REGULAR AGENDA:

Public Hearing:

1. S-23-05 Subdivision: Medal of Honor Subdivision of 69.9 acres into one lot for the Pueblo County Detention Center and two non-buildable parcels reserved for future subdivision and development, generally located west of the intersection of West 24th Street and Pueblo Boulevard (SH45). Staff report by Beritt Odom, Principal Planner.

Public Hearing: Applicant Gary Raso appeared and spoke in support of the application and agreed to Conditions 1 and 2. No one appeared in opposition.

Commission Action: Bailey motioned to recommend the application, with staff conditions 1-2, seconded by Spinuzzi.

Motion Passed: 7-0



DEPARTMENT OF PUBLIC WORKS

MEMORANDUM

TO: Beritt Odom, Principal Planner

CC: Michelle Cruz, Administrative Technician
Subdivision File

FROM: Joe Martellaro, Associate Engineer II

SUBJECT: S-23-05 Medal of Honor Subdivision

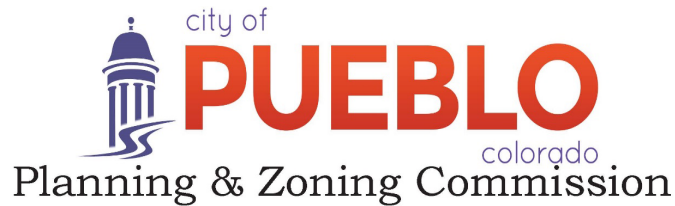
DATE: July 11, 2023

Please place the above referenced submittals on the City Council Agenda.

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative



Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

S-23-05

TO: City of Pueblo, Planning and Zoning Commission

FROM: Beritt Odom, Principal Planner

THROUGH: Scott Hobson, Acting Director of Planning and Community Development

DATE: June 14, 2023

SUBJECT: Medal of Honor Subdivision

APPLICANT: Gary Raso, PC for Pueblo County

PROPERTY OWNER: Pueblo County

LOCATION: 69.9 acres generally located west of the intersection of West 24th Street and Pueblo Boulevard (SH45).

EXISTING ZONE: S-1, Government Use District and A-1, Agricultural One District (Interim Zoning)

CONCURRENT REQUESTS: None

REQUEST:

Pueblo County is requesting to subdivide the recently annexed Pueblo County Detention Center area, 69.9-acres, into one lot for development of the Pueblo County Detention Center and two non-buildable parcels reserved for future subdivision and development.

STAFF REVIEW AND FINDINGS:

The subject property was annexed into the City in May 2023, to facilitate development of the new Pueblo County Detention Center. The property is located west of the intersection of West 24th Street and Pueblo Blvd. (SH45). The subdivision establishes Lot 1, 25.467 acres, south of the proposed Medal of Honor Blvd, and west of the proposed local street right of way, Justice Road. The new Pueblo County Detention Center will be constructed on Lot 1. The subdivision also includes two additional non-buildable parcels, Parcel A (20.719 acres) and Parcel B (15.047 Acres) that are reserved for future re-subdivision and development. Parcel A will contain a drainage easement and Parcel B will contain a Lift Station Easement.

The Medal of Honor Subdivision creates the 150-foot-wide Medal of Honor right-of-way, which will intersect with Pueblo Blvd., directly west of the 24th Street intersection with Pueblo Blvd., and will extend west through the subdivision conforming with the PACOG Long Range Transportation plan for the principal arterial extension into Pueblo West. An access permit will need to be secured from Colorado Department of Transportation by Pueblo County for the Medal of Honor connection to Pueblo Blvd (SH 45). Water and wastewater service lines will be installed within the right-of-way of Medal of Honor Blvd providing service to the County Detention Center and will serve Parcel A and Parcel B upon re-subdivision and future development.

The subdivision also includes a 60-foot-wide local roadway, Justice Road, that extends south from the proposed Medal of Honor Blvd. directly adjacent to the eastern property line of the proposed Lot 1. Justice Road will

provide ingress/egress to a future City owned and maintained parking lot serving the Honor Farm Park and Open Space property, and provide access point(s) to the future re-subdivided Parcel B. Future re-subdivision of Parcel A will require Justice Road to be platted and extended north through Parcel A as shown in the PACOG Long Range Transportation Plan.

APPLICABLE REGULATIONS:

Sec. 17-4-1 through 6 of the Pueblo Municipal Code (PMC) concerning zone district regulations; Sec. 12-4-6(b)(1) through (3) concerning the necessary information and supporting documents to be submitted for review and required drawing to be recorded; and Sec. 12-4-7 concerning the minimum standards for all subdivisions.

ANALYSIS:

The proposed Subdivision conforms with the applicable Municipal Codes.

RECOMMENDED MOTION: The Subdivision Review Committee recommends the Planning and Zoning Commission forward a recommendation the requested Subdivision be **APPROVED** with the following noted:

Requests for Modifications to Requirements:	Not applicable
Request for Deferred Filings	Request for Deferred Filings: The Subdivision Review Committee has no objection to the Request for Deferred Filings, SRC Memo, June 7, 2023.
Plat Deficiencies:	Not Applicable
Conditions of Approval: (Unless otherwise noted, all conditions of approval must be completed prior to the case being scheduled for City Council hearing.)	1. Wastewater: If a diameter 8" or greater service will be installed, the service will be a private sewer and will need to be identified on the plat and referenced in a declaration of covenants on the subdivision plat. 2. Department of Transportation and Public Works: See attached memo from Melanie Turner, Traffic Engineer, June 9, 2023 and redlined subdivision plat.

PLANNING AND COMMUNITY DEVELOPMENT COMMENTS

CHARACTER AND COMPATIBILITY:

❑ **Site Character:**

The subject property is unimproved and contains native vegetation.

❑ **Neighborhood Compatibility:**

North	S-1, Government Use District, City of Pueblo Honor Farm Open Space. 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 Compliance:**

The Pueblo Regional Comprehensive Plan, 2022, designates the subdivision site 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 accommodate 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 Institutional Mixed Use designation.

The eastern portion of the subdivision 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.

ABILITY TO COMPLY WITH THE ZONE DISTRICT REGULATIONS:

❑ **Minimum lot size and width:**

The S-1 Government Use District does not have a minimum lot size or width.

The approved annexation agreement allows for the interim A-1, Zone District regardless of lot area and width. Parcels A and B must be re-subdivided and rezoned prior to development as required by the Annexation Agreement.

REFERRAL AGENCIES AND COMMENTS:

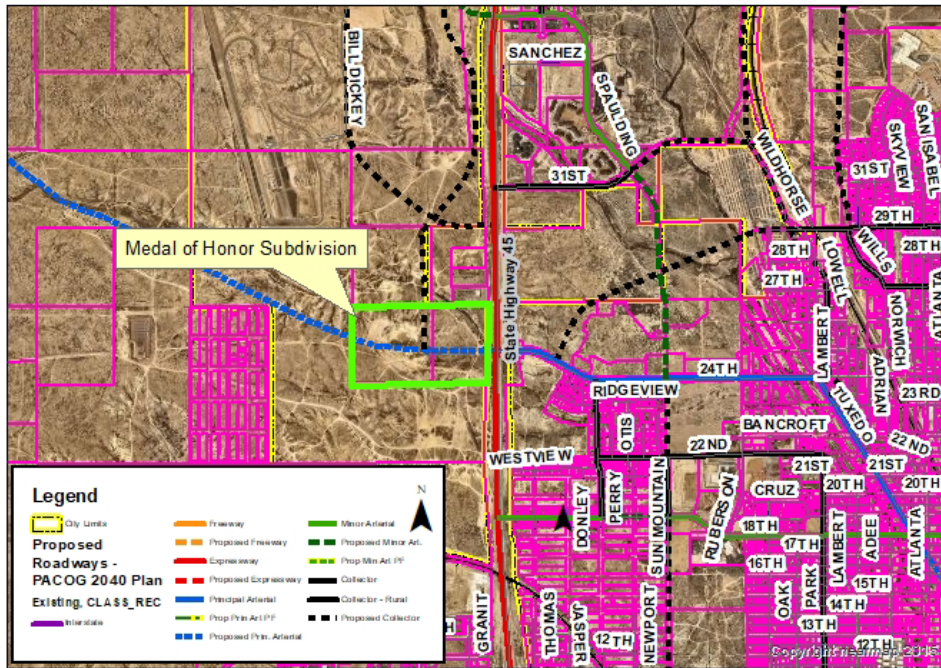
- City Public Works-comments addressed in conditions
- City Transportation-comments addressed in conditions
- Pueblo Regional Building Department-No comment
- City Fire Department-no comment
- Pueblo Board of Water Works-no comment
- City Wastewater-comments addressed in conditions
- City Stormwater-see attached memo from Noah Stamm, Drainage Engineer, June 6, 2023
- City Parks and Recreation Department-no comment
- City GIS-No Comment
- Xcel Energy-No Comment
- Black Hills Energy-No comment
- CDOT-see attached memo from Arthur Gonzales, Access Manager, May 23, 2023

ATTACHMENTS:

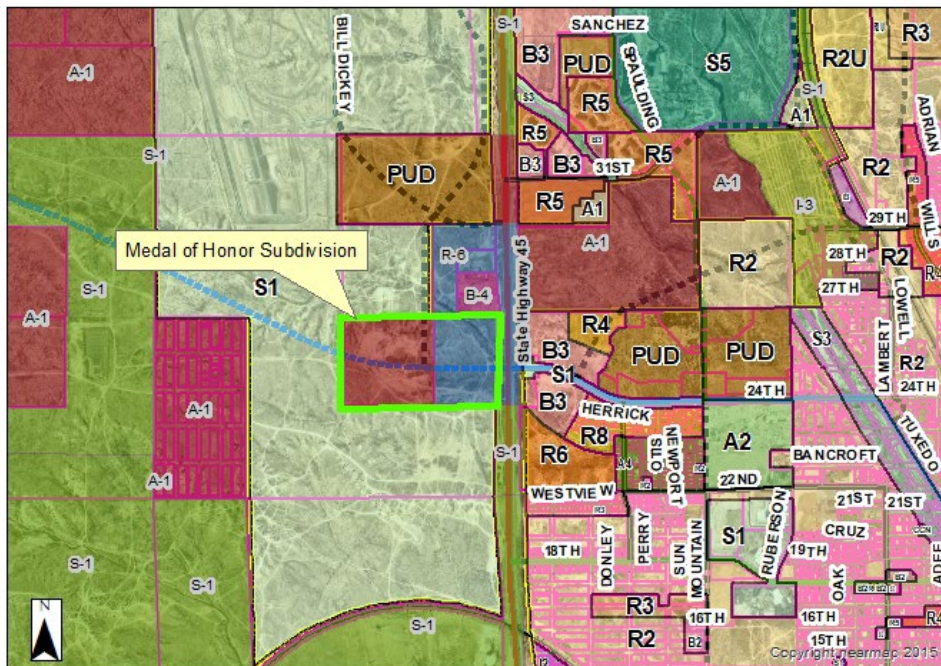
- A. Aerial Photograph

- B. Zoning Map
- C. Comprehensive Plan Map
- D. Site Photographs
- E. SRC Memo June 7, 2023
- F. Plat
- G. Subdivision Application
- H. Stormwater Utility Memo, Noah Stamm, Drainage Engineer, June 6, 2023
- I. DOT Memo, Melanie Turner, Traffic Engineer, June 9, 2023
- J. CDOT Memo, Arthur Gonzales Access Manager, May 23, 2023
- K. Redlined Subdivision Plat with DOT and Public Works Conditions

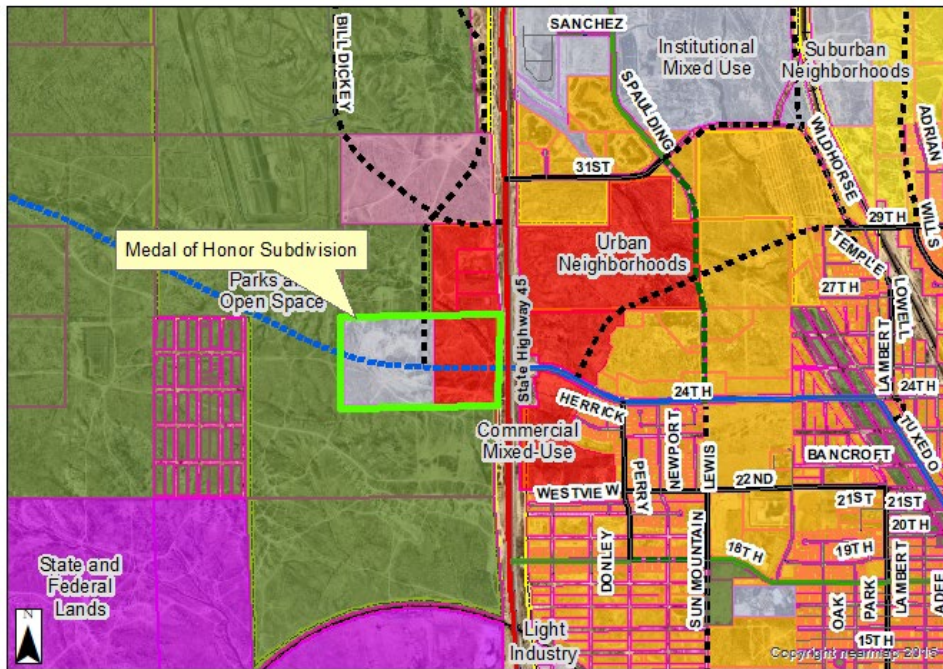
I.
ATTACHMENTS:



A. Aerial Photograph



B. Zoning Map



C. Comprehensive Plan

Attachment D. Site Photos



Medal of Honor Subdivision site looking west from Pueblo Blvd.



Pueblo County Detention Center rezoning site looking east towards Pueblo Blvd.

Andrew Hayes
Director Public Works
Director
Transportation Department
Steven Meier
Director Parks & Recreation



Scott Hobson
Acting Director Planning &
Community Development
Executive Secretary of
Planning & Zoning
Commission

MEMORANDUM

To: Planning and Zoning Commission
From: Subdivision Review Committee
Date: June 9, 2023
Subject: S-23-05 Medal of Honor Subdivision

S-23-05 Medal of Honor Subdivision: The Subdivision Review Committee recommends the Planning and Zoning Commission forward a recommendation that the requested Subdivision be **APPROVED** with the following noted:

Requests for Modifications to Requirements:	None
Request for Deferred Filings	The applicant submitted a request for deferred filings
Plat Deficiencies:	None
Conditions of Approval (all conditions must be addressed prior to City Council review):	1. Wastewater: If a diameter 8" or greater service will be installed, the service will be a private sewer and will need to be identified on the plat and referenced in a declaration of covenants on the subdivision plat. 2. Department of Transportation and Public Works: See attached memo from Melanie Turner, Traffic Engineer, June 9, 2023 and redlined subdivision plat.

SUBDIVISION APPLICATION**Attachments: Subdivision Submittal Checklist - Part I** ☒**Subdivision Submittal Checklist - Part II** ☐

DATE OF APPLICATION: April 10th, 2023		
SUBDIVISION NAME: Medal of Honor Blvd Subdivision		
PROPERTY OWNER: Sabina Genesio, County Manager on behalf of Pueblo County		
ADDRESS: 215 W. 10th St, Pueblo Colorado 81003		
TELEPHONE: 719-583-6244	FAX:	E-MAIL: genesios@pueblocounty.us
SUBDIVIDER (if different than property owner): Pueblo County		
ADDRESS:		
TELEPHONE:	FAX:	E-MAIL:
ENGINEERING FIRM: Wilson & Company		
ADDRESS: 5755 Mark Dabling Blvd, Suite 220 Colorado Springs Co, 80919		
TELEPHONE: 719-651-1026	FAX:	E-MAIL: david.watt@wilsonco.com
PROFESSIONAL ENGINEER IN RESPONSIBLE CHARGE: David Watt		P.E. # 26431
SURVEYING FIRM: Wilson & Company		
ADDRESS: 5755 Mark Dabling Blvd, Suite 220, Colorado Springs Co 80919		
TELEPHONE: 303-501-1247	FAX:	E-MAIL: michael.lindquist@wilsonco.com
PROFESSIONAL LAND SURVEYOR IN RESPONSIBLE CHARGE: Michael Lindquist		P.L.S. # 38666

A Master Development Plan must be approved by the Planning & Zoning Commission prior to the submission of a subdivision plat for any tract of land that constitutes a part of a larger tract of land owned or controlled by the Subdivider 12-4-5 (a)(1) Municipal Code.

If the proposed subdivision includes a Special Area Plan, the applicant must meet with the Subdivision Review Committee prior to submittal of an application for Subdivision.

I hereby certify that I am the owner or acting as agent for the owner pursuant to a valid Power of Attorney from the owner of the property affected by this application for subdivision, that the information contained in the application documents is true and correct to the best of my knowledge, and that the professional consultants identified herein are hereby authorized to act on my behalf on all matters within their technical discipline pertaining to this application.


Property Owner/Agent

IN THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 20 SOUTH, RANGE 65 WEST, OF THE
SIXTH PRINCIPAL MERIDIAN, COUNTY OF PUEBLO, STATE OF COLORADO

"ALL OF THE STREETS AND PUBLIC UTILITY AND CITY EASEMENTS SHOWN HEREON ARE HEREBY DEDICATED TO THE CITY FOR THE PERPETUAL USE OF THE PUBLIC, WITH RESPECT TO ALL EASEMENTS FOR CITY UTILITIES INCLUDING BUT NOT LIMITED TO SANITARY AND STORMWATER SERVICES AND THE OTHER DEDICATED EASEMENTS AND EASEMENTS, PUBLIC UTILITY EASEMENTS, HEREON. THE CITY OF CHICAGO SHALL HAVE THE RIGHT, WITHOUT THE NECESSITY AT ANY TIME OF PROCURING THE CONSENT OR PERMISSION OF ANYONE, TO REMOVE ANY BUILDING, FENCE, TREE, STREET OR OTHER IMPROVEMENT OR GROWTH LOCATED UPON SUCH EASEMENTS THAT IN ANY WAY ENDANGER OR INTERFERE WITH THE CONSTRUCTION, RECONSTRUCTION, MAINTENANCE AND REPAIRS BEING MADE BY THE CITY OF CHICAGO TO SUCH EASEMENTS AND TO COVER THE COSTS THEREOF, PLUS AN ADMINISTRATIVE CHARGE OF 15% FROM THE OWNER(S) OF THE LOTS OR PARCELS UPON WHICH THE EASEMENTS ARE LOCATED."

"DRAINAGE FACILITIES LOCATED WITHIN DRAINAGE EASEMENTS SHOWN HEREON SHALL BE INSTALLED, REPAIRED, AND MAINTAINED IN GOOD WORKING ORDER AND CONDITION BY THE OWNERS OF ALL LOTS WITHIN THE SUBDIVISION. THE CITY OF PUEBLO IS HEREBY GRANTED THE RIGHT BUT NOT THE OBLIGATION IN ITS DISCRETION TO MAINTAIN, REPAIR, OR REPLACE THE DRAINAGE FACILITIES WITHIN SUCH EASEMENTS AND TO RECOVER THE COSTS THEREOF, PLUS ADMINISTRATIVE EXPENSES FROM SAID OWNER(S). ALL DRAINAGE EASEMENTS SHALL BE FURTHER SUBJECT TO THE STORMWATER FACILITY MAINTENANCE AGREEMENT DATED _____ AND FILED CONTEMPORANEOUSLY WITH THE ANNEXED PLAT"

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3. BASIS OF BEARINGS: BEARINGS USED HEREON ARE BASED ON THE EAST LINE OF THE SOUTHEAST 1/4 OF SECTION 21, BEING SSOO°33'34"E, NAD83 COLORADO SOUTH ZONE GRID BEARING, 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. TRACT A AND TRACT B ARE NON-BUILDABLE PARCELS.

NOTICE IS HEREBY GIVEN THAT ACCEPTANCE OF THIS PLATTED SUBDIVISION BY THE CITY OF PUEBLO DOES NOT CONSTITUTE AN ACCEPTANCE OF THE DEDICATED PUBLIC ROADS, PARK, AND OTHER PUBLIC IMPROVEMENTS FOR MAINTENANCE BY THE CITY, UNTIL SUCH DEDICATED PUBLIC ROADS, PARKS AND OTHER PUBLIC IMPROVEMENTS MEET THE REQUIREMENTS, STANDARDS, AND SPECIFICATIONS OF THE CITY, ITS SUBDIVISION ORDINANCE, AND WHERE APPROPRIATE, ITS PARKS DEPARTMENT SPECIFICATIONS, AND SUCH ARE HEREBY HEREOF FURTHER CERTIFIED BY WRITING BY THE CITY DIRECTOR OF PUBLIC WORKS AND WHERE APPLICABLE, THE CITY DIRECTOR OF PARKS AND RECREATION, THE MAINTENANCE, CONSTRUCTION, AND ALL OTHER MATTERS PERTAINING TO OR AFFECTING SAID DEDICATED PUBLIC ROADS, PARK AND OTHER PUBLIC IMPROVEMENTS AND RIGHTS-OF-WAY ARE THE SOLE RESPONSIBILITY OF THE SUBDIVIDER OR ANY SUBSEQUENT OWNER(S) OF THE LAND WITHIN THIS SUBDIVISION. CITY DOES NOT ACCEPT ANY PRIVATE ROADS, EASEMENTS, OR FACILITIES THAT MAY BE DEDICATED HEREON, NOR SHALL THE CITY BE OBLIGATED TO MAINTAIN, CONSTRUCT, OR REPAIR SUCH PRIVATE ROADS, EASEMENTS, AND FACILITIES.

THIS IS TO CERTIFY THAT THE SUBDIVIDER HAS COMPLIED WITH ALTERNATE NO. _____ OF SECTION 12-4-7 (J)(1) AND WITH SECTION 12-4-5 (B), OF THE 1971 CODE OF ORDINANCES, CITY OF PUEBLO, COUNTY OF PUEBLO, STATE OF COLORADO.

DIRECTOR OF PUBLIC WORKS

DATE _____

THIS IS TO CERTIFY THAT THIS SUBDIVISION WAS APPROVED BY THE PLANNING COMMISSION OF THE CITY OF PUEBLO, COUNTY OF PUEBLO, STATE OF COLORADO.

CHAIRPERSON PLANNING COMMISSION DATE

APPROVED BY CITY COUNCIL OF PUEBLO, COLORADO BY ORDINANCE NO. _____

THIS IS TO CERTIFY THAT THE PLAT OF (INSERT FULL NAME OF SUBDIVISION) HAS BEEN APPROVED FOR RECORDING IN THE OFFICE OF THE PUEBLO COUNTY CLERK AND RECORDER OF PUEBLO COUNTY, COLORADO.

CITY CLERK _____ DATE _____

KNOW ALL MEN BY THESE PRESENTS THAT _____, AND
_____ BEING THE SOLE OWNERS OF THE FOLLOWING PROPERTY:

A PARCEL OF LAND LOCATED 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 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 0° 36' 45" W, ALONG SAID WEST LINE, A DISTANCE OF 1319.21 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER; THENCE, S 89° 21' 12" W, ALONG SAID SOUTH LINE, A DISTANCE OF 964.40 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER; THENCE, S 89° 20' 51" W, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER, A DISTANCE OF 1318.28 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER; THENCE, N 0° 36' 16" W, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER, A DISTANCE OF 120.37 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE, N 89° 24' 14" E, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 2333.69 FEET TO THE POINT OF BEGINNING.

CONTAINING 69.906 ACRES, MORE OR LESS.

HAVE CAUSED THE AFOREGOING DESCRIBED PROPERTY TO BE SURVEYED, PLATTED AND SUBDIVIDED INTO PARCELS, THE SAME TO BE NUMBERED, PLATTED, SUBDIVIDED, DIMENSIONED AS SHOWN ON THE ANNEXED PLAT, FOR THE PURPOSE OF CREATING A SUBDIVISION TO BE KNOWN AS MEDAL OF HONOR BLVD SUBDIVISION

PARCELS A AND B ARE HEREBY RESERVED FOR FUTURE SUBDIVISION AND DEVELOPMENT.

ALL OF THE PROPERTY SHOWN ON THIS PLAT IS SUBJECT TO THE TERMS AND CONDITIONS DEFINED AND DESCRIBED IN THE DECLARATION OF COVENANTS_____, AND RECORDED IN THE OFFICE OF THE CLERK AND RECORDER OF PUEBLO COUNTY, COLORADO.

IN WITNESS WHEREOF, _____, _____, SETS HIS HAND AND
SEAL THIS DAY _____ OF _____, 2023A.D.:

PUEBLO COUNTY, A BODY CORPORATE AND POLITICAL SUBDIVISION OF THE STATE OF COLORADO

BY: _____
AS: _____

STATE OF COLORADO)
)SS
COUNTY OF PUEBLO)

_____, A NOTARY PUBLIC IN AND FOR THE COUNTY OF PUEBLO, STATE OF
 COLORADO, DO HEREBY CERTIFY THAT _____
 WHO IS PERSONALLY KNOWN TO ME TO BE THE IDENTICAL PERSON WHO SIGNED THE AFORESAID
 DECLARATION, APPEARED BEFORE ME THIS DAY IN PERSON AND ACKNOWLEDGED THE EXECUTION
 THEREOF TO BE HIS FREE AND VOLUNTARY ACT FOR THE USES AND PURPOSES THEREIN SET FORTH
 AS THE DEED OF SAID ENTITY.

WITNESS MY HAND AND NOSTRIL SEAL THIS THIS _____ DAY OF _____, AD, 20__ A.D.:

MY COMMISSION EXPIRES: _____
 NOTARY PUBLIC: _____
 DATE: _____

THIS IS TO CERTIFY THAT WE HAVE PREPARED THE ANNEXED PLAT AND THAT IT COMPLIES WITH THE MINIMUM STANDARDS FOR LAND SURVEY PLATS AS SET FORTH IN SECTION 38-51-106 ET. SEQ., C.R.S. 1994 (AS AMENDED). WE HAVE PERFORMED THE ACCOMPANYING SURVEY AND IT WAS CONDUCTED BY ME OR UNDER MY RESPONSIBLE CHARGE. ALL LINES AND DIMENSIONS ARE CORRECTLY SHOWN HEREON TO THE BEST OF MY KNOWLEDGE AND BELIEF.

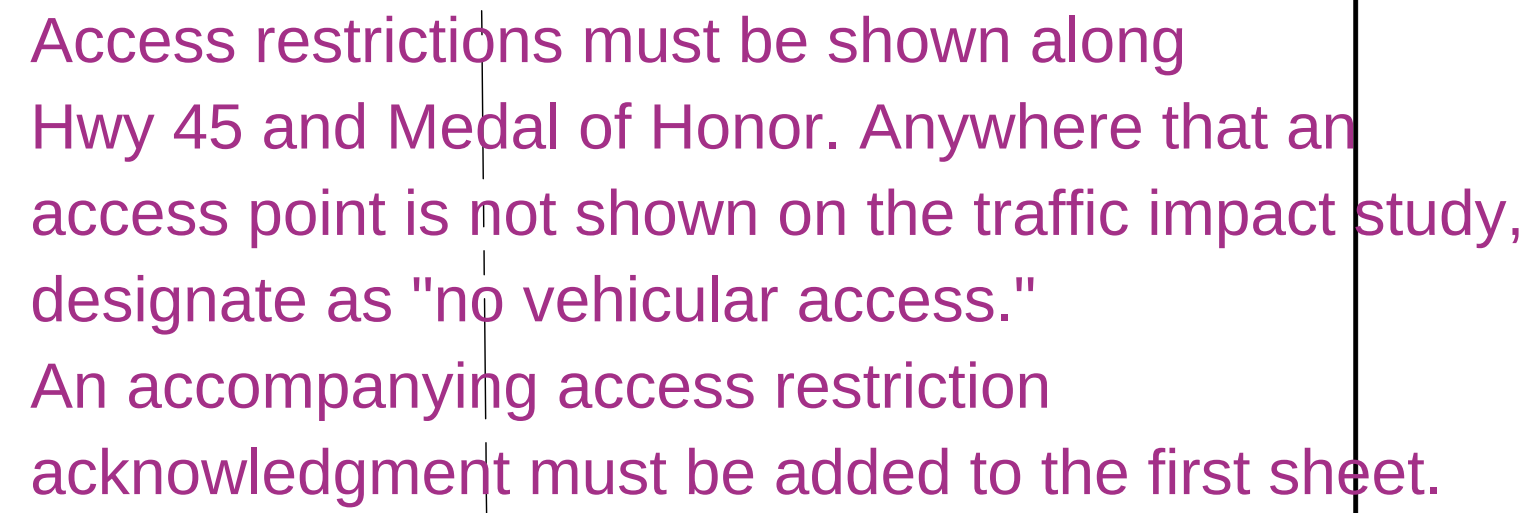
MICHAEL J. LINDQUIST, P.L.S. 38666
900 S. BROADWAY, SUITE 220
DENVER, CO 80209



VICINITY MAP
NOT TO SCALE

ALL SEALS FOR THIS DOCUMENT ARE APPLIED TO THE COVER PAGE						SHT. NO. 1 OF 2		 990 South Broadway Suite 220 Denver, CO 80209 Phone: 303-297-2276 Fax: 303-297-2693	
						SCALE: 1"=100'			
						DWN. BY: TJB DATE: 5-31-2023 CHK. BY:		JOB NO: 21-100-147	
						PROD. MGR: MJL CLIENT APP:		MEDAL OF HONOR SUBDIVISION CITY OF PUEBLO COUNTY OF PUEBLO, STATE OF COLORADO	
01	CITY COMMENTS					TJB	5/3/23	MJL	5/3/23
NO	REVISION-DESCRIPTION					BY	DATE	CHKD	APPD

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





Stormwater Utility

MEMO

TO: Beritt Odom, Principal Planner
FROM: Noah Stamm, Drainage Engineer
DATE: June 6th, 2023
SUBJECT: S-23-05 2nd submittal review

This memo is intended to serve as the Stormwater Utility's review of the referenced project submittal. Please forward to the applicant's representative.

Color Code: Black = April 28 comments
Blue = June 6 comments
(Crossed-out items indicate they have been addressed.)

Part I

- ~~1. See redlined Plat.~~
- ~~2. See redlined Supplemental Map.~~
- ~~3. Provide a Preliminary Drainage Report in accordance with "City of Pueblo Drainage Criteria Manual April 2023". Please clearly identify the phasing of the drainage report. At the time of Phase 1 all requirements pertaining to subdivisions should be addressed including all lots and the portion of the road within the subdivision boundary. Phase 2 can be for the rest of the road.~~
- ~~4. Discuss maintenance responsibilities for the drainage facilities. All ponds and water quality measures will be the responsibility of the owner of the lots in which they lie in. The City will maintain anything in public right of way after subdivision acceptance.~~
- ~~5. Include checklist in drainage report, ensure everything required by checklist is in the report.~~
- ~~6. Discuss each lots intent. Usually, we require regional ponds to be sized for planned land use. If lots 2 & 3 are being platted as nonbuildable state this in the report and explain at time of resubdivision/commercial development these lots will be required to detain for their sites and release at historic rates. Also add notes to plans that if any of the land is disturbed in construction of the road these lots will need to be revegetated per our MS4 permit.~~
- ~~7. All hydrologic and water quality calculations are required in Part I.~~
- ~~8. Provide all required appendices. The only appendix not required at this time is hydraulic calculations.~~
- ~~9. Provide Drainage Plan with everything required by checklist.~~
- ~~10. See additional comments in the redlined drainage report.~~
- ~~11. Provide a project benchmark.~~
- ~~12. Provide revegetation and slope stabilization methods including planned seed mix.~~
- ~~13. All cut and fill slopes must comply with the grading requirements in The Storm Drainage Design Criteria Manual and Drainage Policies for City of Pueblo, Colorado.~~

- ~~14. Provide a stormwater facility maintenance agreement per Pueblo Municipal Code 16.12.10.d. A template and guide have been provided.~~
- ~~15. Provide SWMP in accordance with Pueblo DCM April 2023~~
- ~~16. Please provide the following notes on the ESC Plan:~~
 - ~~a) Prior to any construction, including site grading and excavation, an approved 'Erosion and Sediment Control Plan' shall be posted on site and all required BMPs installed.~~
 - ~~b) General contractor shall maintain and update the 'Erosion and Sediment Control Plan' as construction dictates. Current and correct plan shall always remain on site and be readily accessible to the City Stormwater Inspector.~~
 - ~~c) General contractor or his representative shall inspect, at a minimum, the site every 2 weeks and within 24 hours of any precipitation or snowmelt event that causes surface erosion. (i.e., that results in stormwater running across the ground).~~
 - ~~d) General contractor/owner is fully responsible to maintain all required BMPs to prevent erosion and sediment from leaving the construction site.~~
 - ~~e) Failure to comply with minimum requirements is a violation of City Ordinances.~~

Part II

1. Preliminary drainage report is approved see comments in 2nd redlined report that are applicable to part II. The final drainage report will be reviewed once part II is submitted.
2. Extents of drainage easements subject to change based off Darlene's revisions in C-23-17 based off stage volumes, release rate, and freeboard. If drainage easement extents change this can just be updated before plat is recorded.
3. The City Attorney is currently reviewing the SFMA.

Andrew Hayes
Director of Public Works

Melanie Turner, PE
Traffic Engineer



350 Alan Hamel Avenue
Pueblo, CO 81003

Phone (719) 553-2722
Fax (719) 553-2723

Department of Transportation

MEMO

TO: Beritt Odom
FROM: Melanie Turner, Traffic Engineer
DATE: 6/9/2023
SUBJECT: 2nd Review and P&Z Conditions S-23-05, Medal of Honor Subdivision

P&Z Conditions:

These conditions need to be met prior to being scheduled for City Council.

- 1) Show access restrictions along State Highway 45 and along Medal of Honor. Anywhere that an access point is not shown on the traffic impact study, designate as "no vehicular access." Leave an 80' opening on Parcel A, where Justice Rd. will continue north.
- 2) Add a statement (on the dedications sheet) acknowledging aforementioned access restrictions.
- 3) Provide a plat note (on the first sheet) that says that the collector street, Justice Rd, needs to be platted, designed, and built when Parcel A is subdivided.
- 4) Revise plat statement regarding the dedication of public streets to say:
All streets and easements shown hereon are hereby dedicated to the public for perpetual use.
- 5) Move plat statement (regarding the dedication of public streets) to the dedication section of the page.
- 6) See similar comments/redlines on plat.

Additional comment:

The traffic impact study will need revisions (per the last review) before it is accepted as "final." I will continue to review it with Part II of this subdivision.



COLORADO

Department of Transportation

Region 2 Permits
5615 Wills Blvd, Suite A
Pueblo, CO 81008-2349

May 23, 2023

Highway 45A / 24th Street / Medal of Honor Blvd.
City of Pueblo and Pueblo County

Beritt Odom, Principal Planner
City of Pueblo - Planning and Community Development
211 E. D Street
Pueblo, CO 81003

RE: Medal of Honor - Subdivision - S-23-05

Dear Beritt,

I am in receipt of a plan review referral request for comments for Medal of Honor - Subdivision. The project description will comprise of a 3.3-mile extension of a four-lane divided highway between Purcell Boulevard and Pueblo Boulevard (SH 45) with speeds of 65mph and 45mph. This extension will create the fourth leg of this Intersection. The extension street includes multi-modal trails and pedestrians, E-bikes, and E-scooters. This trail will generally parallel on the north side of the road before turning south to follow on the west side of Pueblo Boulevard and will continue south until it joins the existing trailhead at West 11th Street. Other elements include signalized access off Joe Martinez Blvd. to a new Detention Center 2,600-feet west of the Pueblo Blvd. Intersection. This connection access proposes two have a two-lane access to the new Detention Facility.

Traffic

The Traffic Impact Study dated April 2023 by Wilson and Company has been reviewed by a CDOT Traffic Engineer. Their comments follow:

- The submitted Traffic Impact Study is found to be acceptable and have no further comments.

Hydraulics - The reviewed Phase 1 Drainage Report dated April 10, 2023 by Wilson and Company, has been reviewed and their comments are as follows:

- What are the FEMA flows (in addition to the 100-yr) referenced in section 10.1? The area has zone A. Are the flows for Wildhorse Tributary published in the FIS?
- Existing conditions calculations include areas with large % impervious. The SHAC states "Drainage to the state highway right-of-way shall not exceed the undeveloped historical rate of flow." The undeveloped rate in the CDOT DDM Chapter 7 Table 7.5 defines undeveloped historic flow analysis as 2% impervious. Alternatively, the City of Pueblo drainage criteria can be used for historic rate.
- Please include reference materials discussed in the report in the appropriate appendix.
- Please include a comment response letter with resubmittal.



Access

My comment follows:

- Section 1.4(1) of the State Highway Access Code, states in part that no person, shall construct any access providing direct vehicular movement to or from any state highway from or to property in close proximity or abutting a state highway without an access permit issued by the designated issuing authority with the written approval of the Department.
- Under Section 2.6 (Change in Land Use and Access Use) of the State Highway Access Code, states the requirements of a new access permit. It states in part that if any significant changes are made or will be made in the use of the property which will affect access operation, traffic volume increases by 20% and or vehicle type, the permittee or property owner will coordinates with the local authority and the Department to determine if a new access permit and modifications to the access are required.
- A CDOT Access Permit will be required for this development in regard to the addition of the fourth leg of the intersection and any proposed change in land use in proximity to SH45.
- Development of Access Control Lines will be required as part of the terms and conditions of this development within CDOT Rights of Way. Please coordinate with Arthur Gonzales CDOT Access for guidance.
- It is understood as part of the Access Permit for the Pyramid Motors Auction parcel that they will be gaining access to a newly designed access road to the west of SH45 and the cross over and the existing access is to be closed upon construction.
- A temporary access permit for construction traffic will be allowed through a CDOT Temp Access Permit off SH45. Prior to application, approval of a Traffic Memo detailing the construction traffic or any traffic that will utilize this temp access permit.
- CDOT is awaiting the plan set for the connection point of Medal of Honor Blvd. to SH45 and understands that those are being worked on.
- An Access Application has been made submitted to CDOT for Access to SH45/Pueblo Blvd. but is on hold as the TIS is being vetted out.

Additionally,

- On-premise and off-premise signing shall comply with the current Colorado Outdoor Advertising Act, sections 43-1-401 to 421, C.R.S., and all rules and regulations pertaining to outdoor advertising. Please contact Mr. Todd Ausbun at (719) 696-1403 for any questions regarding advertising devices.
- Any utility work within the state highway right of way will require a utility permit from the CDOT. Information for obtaining a utility permit can also be obtained by contacting Mr. Ausbun.

Please contact me in Pueblo at (719) 546-5732 or by email arthur.gonzales@state.co.us with any questions.

Sincerely,


Arthur Gonzales
CDOT R2 - Access Manager

Xc: file

May 30, 2023

The City Planning and Zoning Commission will hold a public hearing on requests from **Pueblo County** for the approval of the following application generally located west of the intersection of West 24th Street and Pueblo Blvd. (SH45).

S-23-05 Subdivision: Medal of Honor Subdivision, subdivision of subdivision of 69.9 acres into one lot for the Pueblo County Detention Center and two non-buildable parcels reserved for future subdivision and development.

The Planning and Zoning Commission meeting will be held on June 14, 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=WUdnaHVGbnlCdHRrUHNFZnpPWG1Ydz09> 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 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, Acting Director
Planning & Community Development
By **Beritt Odom**, Principal Planner
(719) 553-2339

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Scott Hobson, Acting Director
Planning & Community Development
By **Beritt Odom**, Principal Planner
(719) 553-2339

CASE NUMBER: S-23-05

CERTIFICATION

I hereby certify that I did this day cause written notice of the public hearing on the proposed final plat of the property commonly known as MEDAL OF HONOR BLVD. 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 final plat 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.

May 30, 2023
(Date)

PUEBLO PLANNING & ZONING COMMISSION

By Cindy Caputo

Owner	OwnerStree	OwnerCity	Owr
BUTCHER JAMES H	1 JUDYS DREAM LN	PUEBLO	CO
STATE OF COLORADO DEPT OF NATURAL R + DIV OF PARK	1375 SHERMAN ST	DENVER	CO
MORENO CLAUDIO JR/MORENO JOE ANN	1617 AQUILA DR	PUEBLO	CO
ASH FAMILY INVESTMENTS LLC	2000 MEADOW VALE RD	LONGMONT	CO
PUEBLO COUNTY	215 W 10TH ST	PUEBLO	CO
H M C D INVESTMENTS LLC	2751 N PUEBLO BLVD	PUEBLO	CO
HOUSMAN ROBERT C	63 CORNELL CIR	PUEBLO	CO

OwnerZip

81005-8703

80203-2246

81008-1796

80504-6226

81003-2945

81008-2203

81005-1644



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Haley Robinson, Director of Public Affairs

SUBJECT: AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND PUEBLO SCHOOL DISTRICT NO. 60, RELATING TO THE MANAGEMENT OF A PUBLIC, EDUCATIONAL, AND GOVERNMENTAL CHANNEL ON THE COMCAST CABLE SYSTEM IN THE CITY OF PUEBLO, AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

SUMMARY:

Attached is an Ordinance which approves and authorizes the Mayor to execute an intergovernmental agreement with Pueblo School District No. 60, a public school district and political subdivision of the State of Colorado ("District 60"). The agreement names District 60 as a "designated access provider" to manage one of the City's public, educational, and governmental ("PEG") channels on the Comcast Cable System in the City.

PREVIOUS COUNCIL ACTION:

City Council has previously designated District 60 as a "designated access provider," and approved an agreement with District 60 in 2016 for PEG fees.

BACKGROUND:

By Ordinance No. 8992, dated June 13, 2016, the City granted to Comcast a five-year non-exclusive franchise to operate its cable system within the City. Under the Franchise Agreement, Comcast is required to provide three (3) PEG channels on its City cable system. Pursuant to Section 9.1 of the Franchise Agreement, the City may choose one or more entities to manage a PEG channel. District 60 has requested that it be named as a "designated access provider" in order to provide television programming for the benefit of its students.

Pursuant to the Franchise Agreement, Comcast is required to collect and pay to the

City a fifty cent per month per subscriber PEG access support fee for capital improvements for the PEG channels. In the attached intergovernmental agreement, the City has agreed to pay District 60 33.3% of the PEG capital funds received from Comcast. Of the remaining PEG fees, 12.5% will be retained by the City and 54.2% will be paid to Pueblo Community College. The same split will be maintained when the Franchise Agreement is renewed.

The terms of the intergovernmental agreement are substantially the same as those entered into between the City and District 60 in 2016, but the 2016 agreement has since expired. The split of PEG fees between the parties will also remain the same.

FINANCIAL IMPLICATIONS:

The City anticipates receiving approximately \$120,000 in PEG fees annually. Of that amount, 54.2% (approximately \$65,000) will be paid to Pueblo Community College; 33.3% (approximately \$40,000) will be paid to Pueblo School District No. 60; and 12.5% (approximately \$15,000) will be retained by the City.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Failure to approve this Ordinance would require the City to find another “designated access provider” for one of Comcast’s PEG channels.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. IGA - City and Dist 60 - PEG Fees

ORDINANCE NO. 10524

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND PUEBLO SCHOOL DISTRICT NO. 60, RELATING TO THE MANAGEMENT OF A PUBLIC, EDUCATIONAL, AND GOVERNMENTAL CHANNEL ON THE COMCAST CABLE SYSTEM IN THE CITY OF PUEBLO, AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

WHEREAS, the City of Pueblo wishes to select Pueblo School District No. 60, a public school district and political subdivision of the State of Colorado, ("District 60") as a "designated access provider" to manage one of the three public, educational, and governmental ("PEG") channels on the Comcast Cable Television System within the City of Pueblo; and

WHEREAS, District 60 has requested to be a "designated access provider" and is willing to manage one of the three PEG channels on the local Comcast system; NOW, THEREFORE,

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

SECTION 1.

The Intergovernmental Agreement ("IGA") between the City of Pueblo, a Municipal Corporation, and Pueblo School District No. 60, a public school district and political subdivision of the State of Colorado, a true copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved by Council.

SECTION 2.

The Mayor is hereby authorized to execute the IGA in the name and on behalf of the City of Pueblo, where the Mayor may execute the IGA by electronic signature and such electronic signature shall be attributable to the Mayor and the City of Pueblo.

SECTION 3.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with the intent of this Ordinance and the attached IGA which are necessary or appropriate to implement transactions described therein.

SECTION 4.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on July 24, 2023.

Final adoption of Ordinance by City Council on August 14, 2023.



President of City Council

Action by the Mayor:

☒ Approved on August 17, 2023.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

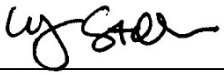
☐ Council did not act to override the Mayor's veto.

☐ 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

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into and effective as of _____, 2023 ("Effective Date"), by and between Pueblo School District No. 60, a public school district and political subdivision of the State of Colorado, located at 315 West 11th Street, Pueblo, Colorado (hereinafter referred to as "District 60"), and the City of Pueblo, a Municipal Corporation, located at 1 City Hall Place, Pueblo, Colorado (hereinafter referred to as "City"). City and District 60 may each be referred to herein individually as a "Party" or collectively as the "Parties."

WHEREAS, District 60 provides a pre-kindergarten through 12th grade public education program, including career and technical education, and desires to: provide education in the field of television production, videography, and broadcasting for its students; produce and/or broadcast educational or instructional content; broadcast meetings of District 60's Board of Education; and provide public announcements and other matters of interest or importance to the District 60 educational community (all of which functions are hereinafter collectively referred to as "Television Programming"); and

WHEREAS, District 60 and City desire to cooperate in District 60's efforts to provide meaningful Television Programming; and

WHEREAS, under that certain Franchise Agreement between the City of Pueblo and Comcast of Colorado IV, LLC ("Comcast") approved by Ordinance No. 8992 of the City of Pueblo ("Current Franchise"), Comcast has been granted a cable television franchise under which it (a) must activate and make available public, educational, and governmental ("PEG") channels to its subscribers, and (b) must collect and remit PEG access support fees to be used by City solely for PEG capital facilities and equipment ("PEG Capital Funds"); and

WHEREAS, pursuant to Section 9.1 of the Current Franchise, City may designate an entity or entities to manage all or part of the PEG channels ("designated access providers"); and

WHEREAS, a new Franchise Agreement between the City of Pueblo and Comcast is currently being negotiated ("Successive Franchise"), where it is proposed that Comcast be granted a cable television franchise under which it (a) must activate and make available PEG channels to its subscribers, and (b) must collect and remit PEG Capital Funds; and

WHEREAS, District 60 represents that it is willing and able to act as a designated access provider for a PEG channel provided under the Current Franchise and Successive Franchise, and City is willing to select District 60 as a designated access provider subject to compliance with the terms of this Agreement; and

WHEREAS, City is willing to provide PEG Capital Funds to District 60 for acquisition of capital equipment and facilities to be used in connection with Television Programming for cablecasting on its designated PEG channel; and

WHEREAS, the District 60 Superintendent, or his or her designee, has been delegated the authority to approve training agreements, to receive services, to use property, and to enter into other agreements so long as they involve less than \$250,000.00; and

WHEREAS, the Board of Education of District 60 has designated the Superintendent to enter into such training and other agreements for District 60.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the parties agree as follows:

1. GENERAL AND SCOPE OF SERVICES.

(a) District 60 agrees to perform, using its own employees and enrolled District 60 students, volunteers, and any consultants or contractors hired by District 60, the planning, implementation, and professional services necessary to provide Television Programming, and to furnish all labor, equipment, 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 the provisions of this Agreement.

(b) District 60 represents that it has the requisite authority and the necessary capacity to perform the services and Television Programming contemplated in Exhibit "A." To the extent any services or Television Programming are provided by consultants or contractors to District 60, District 60 shall bind same to the terms of this Agreement, and shall be responsible for their work and services.

(c) District 60 agrees that all Television Programming and related services performed under this Agreement by students enrolled at District 60 shall be supervised by District 60 instructors, and District 60 instructors shall supervise students when programming is released to the Comcast headend.

2. CITY RESPONSIBILITIES.

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

3. PEG CAPITAL GRANT.

(a) Subject to receipt of PEG Capital Funds from Comcast and appropriation thereof by City Council, City will make a grant to District 60 in the amount of 33.3% of the PEG Capital Funds received from Comcast pursuant to the Current Franchise for acquisition by District 60 of only capital equipment and fixtures dedicated to PEG support ("PEG Capital Grant"). Upon the effective date of the Successive Franchise, and termination or expiration of the Current Franchise and PEG Capital Grant, unless otherwise set forth in a signed written agreement, City will make a grant to District 60 in the amount of 33.3% of the PEG Capital Funds received from Comcast pursuant to the Successive Franchise for further acquisition by District 60 of only capital

equipment and fixtures dedicated to PEG support (“Successive PEG Capital Grant”). All such equipment and fixtures shall have a useful life of not less than five (5) years. City will disburse the PEG Capital Grant and Successive PEG Capital Grant to District 60 in the following manner:

(i) District 60 shall obtain pre-approval from City for the specific capital equipment and fixtures to be procured with PEG Capital Grant or Successive PEG Capital Grant funds; and

(ii) Upon acquisition of the equipment and fixtures, District 60 shall submit periodic reimbursement requests to City detailing the eligible payment and reimbursement items; and

(iii) Upon verification by City that the expenditure has been authorized, City will disburse payment of PEG Capital Funds to District 60, aggregating up to but not exceeding the maximum amount specified in this Section.

(b) The equipment and fixtures used by District 60 for Television Programming and broadcasting purposes shall, when necessary, be replaced or repaired at District 60’s sole expense out of District 60’s allocation of the PEG Capital Grant or Successive PEG Capital Grant funds, as applicable. The Parties further agree that all equipment and fixtures located at City Hall or Memorial Hall which have been used for cablecasting purposes, are and shall remain the sole and exclusive property of the City.

4. TERM OF AGREEMENT.

The term of this Agreement shall be from July 1, 2023 to June 30, 2028, unless sooner terminated as herein provided. Should the Successive Franchise extend past June 30, 2028, this Agreement shall automatically renew and run concurrently with the Successive Franchise, and this Agreement will terminate upon termination or expiration of the Successive Franchise.

5. TERMINATION FOR CAUSE.

This Agreement may be terminated by City for cause, including any material nonperformance by District 60, upon ten (10) days’ prior written notice to District 60 including a statement of the reasons therefor. During said ten (10) day period, District 60 shall either correct the nonperformance or request a hearing before City Council to determine whether District 60 has failed to perform and whether, in the determination of Council, the Agreement should be terminated. If a hearing is requested, it shall be scheduled at a regular or special meeting of the City Council, and the decision of the City Council after hearing shall be deemed final and conclusive.

6. ASSIGNABILITY.

This Agreement shall not be assigned nor transferred by either Party without the prior written consent of the other Party. Any assignment or attempted assignment made in violation of this provision shall, at the non-assigning Party’s election, be deemed void and of no effect whatsoever.

7. INDEPENDENT CONTRACTOR.

District 60 is performing services under this Agreement as an independent contractor, and nothing herein shall be construed to make District 60 or any of its agents, employees, or students the agents or employees of City. No student, teacher, District 60 employee, parent, personal representative, or other person, firm, or entity shall be granted or have any private right of action, claim or civil liability remedy against the City or District 60, nor their respective officers, employees, or agents, by virtue of this Agreement. Nothing in this Agreement shall be construed to create any liability, or to waive any of the immunities, limitations on liability or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§24-10-101 et seq., or to waive any immunities or limitations on liability otherwise available to the City, District 60, or their officers, employees, or agents.

8. LIABILITY.

As to the City, District 60 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 District 60 or by the conditions created thereby; provided, however, that nothing in this paragraph is intended, nor should it be construed, to create or extend any rights, claims or benefits or assume any liability for or on behalf of any third party, or to waive any immunities or limitations otherwise conferred under or by virtue of federal or state law, including but not limited to the Colorado Governmental Immunity Act, C.R.S. §§24-10-101 et seq. District 60 shall provide and maintain Workers' Compensation insurance coverage or self-insurance on its employees complying with the requirements of State law. District 60 shall be responsible for and ensure the PEG channel and all services meet all applicable accessibility requirements, including but not limited to those set forth in Section 24-85-101 et seq., C.R.S., and Section 24-34-801 et seq., C.R.S.

9. NO CREATION OF DEBT BY CITY.

This Agreement is expressly made subject to the limitations of the Colorado Constitution. Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City Council of Pueblo, contrary to Article X, §20 of the Colorado Constitution or any other constitutional, statutory or charter debt limitation. Notwithstanding any other provision of this Agreement, with respect to any financial obligation of City which may arise under this Agreement in any fiscal year, in the event the budget or other means of appropriations for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure shall not constitute a default by or breach of this Agreement, including any attachment or exhibit thereto, by the City. Upon written notice, City may, in its sole and absolute discretion, terminate this Agreement for reasons of non-appropriation and without causing default or breach, discontinue the payment of PEG Capital Funds to District 60; provided, however non-appropriation shall not affect District 60's status as a designated access provider for a PEG channel provided under the Current Franchise and Successive Franchise.

10. MISCELLANEOUS.

(a) Notices. Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to either Party 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, Attention: Mayor, 1 City Hall Place, Pueblo, Colorado 81003, or to District 60, Attention: Superintendent, 315 West 11th Street, Pueblo, Colorado 81003. Either Party may change its address for the purpose of this paragraph by giving written notice of such change to the other Party in the manner provided in this paragraph.

(b) Entire Agreement. This instrument contains the entire agreement between the Parties concerning the subject matter hereof, and any other written or oral agreement or representation respecting the subject matters hereof or the duties of either Party in relating thereto not expressly set forth in this instrument and its attachments is null and void.

(c) Amendments. No amendments to this Agreement shall be made nor be enforceable unless made by written amendment signed by an authorized representative of each Party.

(d) Equal Employment Opportunity. In connection with the performance of this Agreement, District 60 shall not discriminate against any employee or student or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, gender expression, marital status, sexual preference, national origin, disability or age. District 60 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, gender identity, gender expression, marital status, sexual preference, national origin, disability or age.

(e) Waiver of Breach. A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

(f) Governing Law and Venue. This Agreement shall be governed by 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

(g) Electronic Signatures. 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.

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

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the Effective Date.

PUEBLO SCHOOL DISTRICT NO. 60

CITY OF PUEBLO,
A MUNICIPAL CORPORATION

By: _____
Name: Thomas Farrell
President, Board of Education

By: _____
Nicholas A. Gradisar, Mayor

APPROVED AS TO FORM:

ATTEST:

By: _____
Caplan and Earnest LLC
Attorneys for Pueblo School District No. 60

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT “A”

SCOPE OF SERVICES

Generally, District 60 shall provide the following functions: (1) Serving as the designated access provider for its designated PEG channel under the Current Franchise and Successive Franchise, and (2) Providing Television Programming, as that term is defined in the Agreement.

I. Designated Access Provider

District 60 shall serve as one of the City’s designated access providers under the Current Franchise and Successive Franchise. The other designated access provider shall be Pueblo Community College. In connection therewith, District 60 shall:

1. Schedule and transmit all content to the headend of Comcast for airing on its designated PEG channel.
2. Manage the designated PEG channel on behalf of City, subject to general discretion from City. In general, District 60 will be the designated access provider for the education channel (“E”), which shall be used for educational or instructional content; the broadcasting of meetings of District 60’s Board of Education; and other material and announcements of interest or importance to the District 60 educational community.
3. In managing the designated PEG channel, District 60 shall make reasonable efforts to not permit commercial programming or advertising; provided that brief recognition of programming sponsors may be made. District 60 shall also make all reasonable effort to avoid transmission of libelous, obscene, or otherwise unprotected speech or material prohibited by federal law.
4. Develop rules and regulations for use and management of the designated PEG channel and submit same to the Mayor for approval. In the event the Mayor requests any changes therein, District 60 shall make such changes and resubmit the rules and regulations for approval.
5. Operate and maintain all equipment necessary to support District 60’s functions as a designated access provider.
6. District 60 is encouraged to provide channel information to Comcast and Comcast’s menu programmer in a timely manner in order to enable the program information to appear in the menu. District 60 should obtain the menu provider information directly from Comcast.
7. Make reasonable efforts to provide around-the-clock programming on its designated PEG channel. Inadequate scheduled programming and excessive service outages during scheduled programming shall be grounds for termination of this Agreement for cause. District 60 shall notify the Mayor if it determines that activation of an additional PEG channel is needed.
8. Promote the use of its PEG channel to content providers and the public.

II. PEG Origination Services

1. District 60 shall establish and equip a television production facility, including all necessary equipment and personnel, in order to record, produce, and transmit original programming or other authorized content for its designated PEG channel. District 60 shall use PEG Capital Funds only for PEG related capital costs.

2. District 60 shall work with and defer to City's Information Technology (IT) Department in coordinating upgrades and replacement of equipment and systems on City property. Should certain City-owned equipment require upgrades or replacement to meet the specifications of District 60 upgrades and replacements, such upgrades and replacements of the City-owned equipment, including but not limited to upgrades and replacements of "handoff" equipment and cabling, shall be paid for solely by District 60 from its allocation of PEG Capital Funds. All upgrades and replacements of City-owned equipment shall be owned solely by the City, and District 60 shall have no right or interest in the same.

3. District 60 shall work with and defer to City's IT Department in creating redundancy routes for audio, visual, and streaming services, such that City is still able to provide the services if District 60's system becomes unavailable for any reason.



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Haley Robinson, Director of Public Affairs

SUBJECT: AN ORDINANCE APPROVING TWO INTERGOVERNMENTAL AGREEMENTS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, DEPARTMENT OF HIGHER EDUCATION, RELATING TO THE MANAGEMENT OF TWO PUBLIC, EDUCATIONAL, AND GOVERNMENTAL CHANNELS ON THE COMCAST CABLE SYSTEM IN THE CITY OF PUEBLO AND PROVIDING FOR THE PRODUCTION OF WEEKLY COUNCIL MEETINGS, AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

SUMMARY:

Attached is an Ordinance which approves and authorizes the Mayor to execute two intergovernmental agreements (IGAs) with Pueblo Community College. The IGAs name the community college as a “designated access provider” to manage two of the City’s public, educational, and governmental (“PEG”) channels on the Comcast Cable System in the City and provide for the production of weekly City Council meetings.

PREVIOUS COUNCIL ACTION:

City Council has previously designated Pueblo Community College (“PCC”) as its “designated access provider,” and approved an agreement with PCC in 2016 for PEG fees and broadcasting of City Council meetings.

BACKGROUND:

By Ordinance No. 8992, dated June 13, 2016, the City granted to Comcast a five-year non-exclusive franchise to operate its cable system within the City. Under the Franchise Agreement, Comcast is required to provide three (3) PEG channels on its City cable system. Pursuant to Section 9.1 of the Franchise Agreement, the City may choose one or more entities to manage a PEG channel. Pueblo Community College has requested that it be named as a “designated access provider” in order to provide television programming for the benefit of its students.

Pursuant to the Franchise Agreement, Comcast is required to collect and pay to the City a fifty cent per month per subscriber PEG access support fee for capital improvements for the PEG channels. In the attached IGAS, the City has agreed to pay to PCC 54.2% of the PEG capital funds received from Comcast. Of the remaining PEG fees, 12.5% will be retained by the City and 33.3% will be paid to Pueblo School District No. 60. The same split will be maintained when the Franchise Agreement is renewed.

In addition, PCC has agreed to continue cablecasting City Council meetings and work sessions on the second and fourth Mondays of each month.

The terms of the IGAs are substantially the same as those entered into between the City and PCC in 2016, but the 2016 agreement has since expired. The split of PEG fees between the parties will also remain the same.

FINANCIAL IMPLICATIONS:

The City anticipates receiving approximately \$120,000 in PEG fees annually. Of that amount, 54.2% (approximately \$65,000) will be paid to Pueblo Community College; 33.3% (approximately \$40,000) will be paid to Pueblo School District No. 60; and 12.5% (approximately \$15,000) will be retained by the City.

The City will pay PCC \$4,250 per month for cablecasting services.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Failure to approve this Ordinance would require the City to find another “designated access provider” for two of Comcast’s PEG channels.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. IGA - City and PCC - PEG fees
2. IGA - City and PCC - Council Meetings

ORDINANCE NO. 10525

AN ORDINANCE APPROVING TWO INTERGOVERNMENTAL AGREEMENTS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, DEPARTMENT OF HIGHER EDUCATION, RELATING TO THE MANAGEMENT OF TWO PUBLIC, EDUCATIONAL, AND GOVERNMENTAL CHANNELS ON THE COMCAST CABLE SYSTEM IN THE CITY OF PUEBLO AND PROVIDING FOR THE PRODUCTION OF WEEKLY COUNCIL MEETINGS, AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

WHEREAS, the City of Pueblo wishes to select Pueblo Community College as a “designated access provider” to manage two of the three public, educational, and governmental (“PEG”) channels on the Comcast Cable Television System within the City of Pueblo; and

WHEREAS, Pueblo Community College has requested to be a “designated access provider” and is willing to manage two of the three PEG channels on the local Comcast system; and

WHEREAS, Pueblo Community College has agreed to continue to cablecast the meetings and work sessions of the Pueblo City Council on the second and fourth Mondays of each month; NOW, THEREFORE,

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

SECTION 1.

The Intergovernmental Agreement – Public, Educational, and Governmental (PEG) Fees and the Intergovernmental Agreement – Weekly Council Meeting Production (together the “IGAs”) between the City of Pueblo, a Municipal Corporation, and the State of Colorado, Department of Higher Education, State Board for Community Colleges and Occupational Education, for the use and benefit of Pueblo Community College, true copies of which are attached hereto, having been approved as to form by the City Attorney, are hereby approved by Council.

SECTION 2.

The Mayor is hereby authorized to execute the IGAs in the name and on behalf of the City of Pueblo, where the Mayor may execute the IGAs by electronic signature and such electronic signature shall be attributable to the Mayor and the City of Pueblo.

SECTION 3.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with the intent of this Ordinance and the attached IGAs which are necessary or appropriate to implement transactions described therein.

SECTION 4.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on July 24, 2023.

Final adoption of Ordinance by City Council on August 14, 2023.



President of City Council

Action by the Mayor:

☒ Approved on August 17, 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

INTERGOVERNMENTAL AGREEMENT
PUBLIC, EDUCATIONAL, AND GOVERNMENTAL (“PEG”) FEES

THIS AGREEMENT ("Agreement") is made and entered into and effective as of _____, 2023 (“Effective Date”), by and between the State of Colorado, Department of Higher Education, State Board for Community Colleges and Occupational Education, for the use and benefit of Pueblo Community College, located at 900 W. Orman Avenue, Pueblo, Colorado (hereinafter referred to as “PCC”), and the City of Pueblo, a Municipal Corporation, located at 1 City Hall Place, Pueblo, Colorado (hereinafter referred to as “City”). City and PCC may each be referred to herein individually as a "Party" or collectively as the "Parties."

WHEREAS, PCC operates an educational facility and desires to provide occupational education in the field of television production, videography, and broadcasting ("Television Instruction"); and

WHEREAS, PCC and City desire to cooperate in PCC’s efforts to provide meaningful Television Instruction to PCC students; and

WHEREAS, under that certain Franchise Agreement between the City of Pueblo and Comcast of Colorado IV, LLC ("Comcast") approved by Ordinance No. 8992 of the City of Pueblo ("Current Franchise"), Comcast has been granted a cable television franchise under which it (a) must activate and make available public, educational, and governmental ("PEG") channels to its subscribers, and (b) must collect and remit PEG access support fees to be used by City solely for PEG capital facilities and equipment ("PEG Capital Funds"); and

WHEREAS, pursuant to Section 9.1 of the Current Franchise, City may designate an entity or entities to manage all or part of the PEG channels ("designated access providers"); and

WHEREAS, a new Franchise Agreement between the City of Pueblo and Comcast is currently being negotiated ("Successive Franchise"), where it is proposed that Comcast be granted a cable television franchise under which it (a) must activate and make available PEG channels to its subscribers, and (b) must collect and remit PEG Capital Funds; and

WHEREAS, PCC has, under purchase orders from City for several years, provided equipment and students enrolled in Television Instruction to provide videography, production and cablecasting of such City Council meetings over Comcast cable channel 17, and the Parties desire to continue to have PCC provide such equipment and services; and

WHEREAS, City desires to continue cablecasting, over the Comcast cable television system, of regular meetings of the City Council and meeting of the executive committee of the City Council which occur on the same days as regular meetings; and

WHEREAS, PCC represents that it is capable and willing to act as a designated access provider for the PEG channels provided under the Current Franchise and Successive Franchise, and City is willing to select PCC as a designated access provider subject to compliance with the terms of this Agreement; and

WHEREAS, City is willing to provide PEG Capital Funds to PCC for acquisition of capital equipment and facilities to be used in connection with programming and production of content for cablecasting on the PEG channels; and

WHEREAS, the System Chancellor of the State Board for Community Colleges and Occupational Education, or his or her designee, has been delegated the authority to approve training agreements, to receive services, to use property, and to enter into other agreements so long as they involve less than \$500,000; and

WHEREAS, the System Chancellor has designated the College President of Pueblo Community College to enter into such training and other agreements for PCC.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the parties agree as follows:

1. GENERAL AND SCOPE OF SERVICES.

(a) PCC agrees to perform, using its own employees and enrolled PCC students, and any consultants or contractors hired by PCC, the planning, implementation, services, and items of work, and to furnish all labor, equipment, 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 the provisions of this Agreement.

(b) PCC represents that it has the requisite authority and capacity to perform the work and services contemplated in Exhibit "A." To the extent any work or services are provided by consultants or contractors to PCC, PCC shall bind same to the terms of this Agreement, and shall be responsible for their work and services.

(c) PCC agrees that all Television Instruction and services performed under this Agreement by students enrolled at PCC shall be supervised by PCC instructors, and PCC instructors shall supervise students when present upon City's facilities and when programming is released to the Comcast headend.

2. CITY RESPONSIBILITIES.

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

3. PEG CAPITAL GRANT.

(a) Subject to receipt of PEG Capital Funds from Comcast and appropriation thereof by City Council, City will make a grant to PCC in the amount of 54.2% of the PEG Capital

Funds received from Comcast pursuant to the Current Franchise for acquisition by PCC of only capital equipment and fixtures dedicated to PEG support ("PEG Capital Grant"). Upon the effective date of the Successive Franchise, and termination or expiration of the Current Franchise and PEG Capital Grant, unless otherwise set forth in a signed written agreement, City will make a grant to PCC in the amount of 54.2% of the PEG Capital Funds received from Comcast pursuant to the Successive Franchise for further acquisition by PCC of capital equipment and fixtures dedicated to PEG support ("Successive PEG Capital Grant"). All such equipment and fixtures shall have a useful life of not less than five (5) years

(b) The PEG Capital Grant and Successive PEG Capital Grant detailed in section 3(a) shall be the only compensation made to PCC under this Agreement, and no additional payment shall be made for overhead expenses, utilities, copying, computer time, supplies, equipment rental, nor other expenses, it being the intent of the Parties that PCC is providing a "turnkey" solution as the City's designated access provider for the PEG channels as set forth in Exhibit "A."

(c) The equipment and fixtures used by PCC for cablecasting purposes shall, when necessary, be replaced or repaired at PCC's sole expense out of PCC's allocation of the PEG Capital Grant or Successive PEG Capital Grant funds, as applicable. The Parties further agree that all equipment and fixtures located at City Hall or Memorial Hall which have been used for cablecasting purposes, are and shall remain the sole and exclusive property of the City.

4. TERM OF AGREEMENT.

The term of this Agreement shall be from July 1, 2021 to June 30, 2028 unless sooner terminated as herein provided. Should the Successive Franchise extend past June 30, 2028, this Agreement shall automatically renew and run concurrently with the Successive Franchise, and this Agreement will terminate upon termination or expiration of the Successive Franchise.

5. TERMINATION.

(a) For Cause. This Agreement may be terminated by City for cause, including any material nonperformance by PCC, upon ten (10) days' prior written notice to PCC including a statement of the reasons therefor. During said ten (10) day period, PCC shall either correct the nonperformance or indicate it is unable to remedy the breach.

(b) For Convenience. Either Party may terminate this Agreement upon ninety (90) days' prior written notice to the other Party.

6. ASSIGNABILITY.

This Agreement shall not be assigned nor transferred by either Party without the prior written consent of the other Party. Any assignment or attempted assignment made in violation of this provision shall, at the non-assigning Party's election, be deemed void and of no effect whatsoever.

7. INDEPENDENT CONTRACTOR.

PCC is performing services under this Agreement as an independent contractor, and nothing herein shall be construed to make PCC or any of its agents, employees, or students the agents or employees of City. No student, teacher, PCC employee, parent, personal representative, or other person, firm, or entity shall be granted or have any private right of action, claim, or civil liability remedy against the City or PCC, nor their respective officers, employees, or agents, by virtue of this Agreement. Nothing in this Agreement shall be construed to create any liability, or to waive any of the immunities, limitations on liability or other provisions of the Governmental Immunity Act, Section 24-10-101 et seq., C.R.S., or to waive any immunities or limitations on liability otherwise available to the City, PCC, or their officers, employees, or agents.

8. LIABILITY.

As to the City, PCC 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 PCC or by the conditions created thereby; provided, however, that nothing in this paragraph is intended, nor should it be construed, to create or extend any rights, claims or benefits or assume any liability for or on behalf any third party, or to waive any immunities or limitations otherwise conferred under or by virtue of federal or state law, including but not limited to the Colorado Governmental Immunity Act, C.R.S. §24-10-101, et seq. PCC shall provide and maintain Workers' Compensation insurance coverage or self-insurance on its employees complying with the requirements of State law. PCC shall be responsible for and ensure the PEG channels and all services meet all applicable accessibility requirements, including but not limited to those set forth in Section 24-85-101 et seq., C.R.S., and Section 24-34-801 et seq., C.R.S.

9. NO CREATION OF DEBT BY CITY.

This Agreement is expressly made subject to the limitations of the Colorado Constitution. Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City Council of Pueblo, contrary to Article X, §20 of the Colorado Constitution or any other constitutional, statutory or charter debt limitation. Notwithstanding any other provision of this Agreement, with respect to any financial obligation of City which may arise under this Agreement, in the event the budget or other means of appropriations for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure shall not constitute a default by or breach of this Agreement, including any attachment or exhibit thereto, by the City. City may in its sole and absolute discretion terminate this Agreement for reasons of non-appropriation immediately upon written notice without causing default or breach.

10. MISCELLANEOUS.

- (a) Notices. Any and all notices or other communications required or permitted

by this Agreement or by law to be served on or given to either Party 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, Attention: Mayor, 1 City Hall Place, 2nd Floor, Pueblo, Colorado 81003, or to PCC, Attention: _____, 900 W. Orman Avenue, Pueblo, Colorado, 81004. Either Party may change its address for the purpose of this paragraph by giving written notice of such change to the other Party in the manner provided in this paragraph.

(b) Entire Agreement. This instrument contains the entire agreement between the Parties concerning the subject matter hereof, and any other written or oral agreement or representation respecting the subject matters hereof or the duties of either Party in relating thereto not expressly set forth in this instrument and its attachments is null and void.

(c) Amendments. No amendments to this Agreement shall be made nor be enforceable unless made by written amendment signed by an authorized representative of each Party.

(d) Equal Employment Opportunity. In connection with the performance of this Agreement, PCC shall not discriminate against any employee or student or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, sexual preference, national origin, disability, or age. PCC 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, marital status, sexual preference, national origin, disability, or age.

(e) Waiver of Breach. A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

(f) Governing Law and Venue. This Agreement shall be governed by 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

(g) Electronic Signatures. 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.

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

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the Effective Date.

STATE OF COLORADO
for the use and benefit of
STATE BOARD FOR COMMUNITY
COLLEGES AND OCCUPATIONAL
EDUCATION

_____, Governor

By _____

Name: _____

Title: President of Pueblo Community College

APPROVED:
STATE CONTROLLER

By _____

Name: _____

Title: _____

Date: _____

CITY OF PUEBLO,
A MUNICIPAL CORPORATION

By _____
Nicholas A. Gradisar, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

(Acting) City Attorney

EXHIBIT "A"

SCOPE OF SERVICES

Generally, PCC shall provide two (2) discrete functions: (1) Serving as the designated access provider for the PEG channels under the Current Franchise and Successive Franchise, and (2) Providing studio and PEG programming origination services.

I. Designated Access Provider

PCC shall serve as one of the City's designated access providers under the Current Franchise and Successive Franchise. The other designated access provider shall be Pueblo School District No. 60 ("D-60"). In connection therewith, PCC shall:

1. Schedule and transmit all content to the headend of Comcast for airing on Comcast PEG channels 17 and 19.
2. Manage the PEG channels on behalf of City, subject to general discretion from City. In general, the public use channel ("P") shall be used for public content, the education channel ("E") for educational or instructional content, and the government channel ("G") for governmental content. PCC will be the designated access provider for the P channel and the G channel.
3. In managing the PEG channels, PCC shall make reasonable efforts to not permit commercial programming or advertising; provided that brief recognition of programming sponsors may be made. PCC shall also make all reasonable effort to avoid transmission of libelous, obscene, or otherwise unprotected speech or material prohibited by federal law.
4. Develop rules and regulations for use and management of the PEG channels and submit same to the Mayor for approval. In the event the Mayor requests any changes therein, PCC shall make such changes and resubmit the rules and regulations for approval.
5. Operate and maintain all equipment necessary to support PCC's functions as the designated access provider.
6. PCC is encouraged to provide channel information to Comcast and Comcast's menu programmer in a timely manner in order to enable the program information to appear in the menu. PCC should obtain the menu provider information directly from Comcast.
7. Make reasonable efforts to provide around-the-clock programming on two PEG channels. Excessive service outages during scheduled programming shall be grounds for termination of the Agreement for cause. PCC shall notify the Mayor if it determines that activation of an additional PEG channel is needed.
8. Promote the use of the PEG channels to content providers and the public.

II. Studio and PEG Origination Services and Capital Improvements

1. PCC shall provide a television studio and television production facilities, including all necessary equipment and personnel, in order to record, produce, and transmit original programming content for two of the PEG channels. PCC shall schedule public forum time for studio use and make the studio available to the public during such scheduled periods, consistent with PCC's other studio needs. PCC shall adopt reasonable rules for the use of its studio facilities.

2. In consideration and upon receipt of City's grant of PEG Capital Funds to PCC, PCC shall upgrade and replace the equipment and fixtures used in City Council chambers for PEG channel purposes, including but not limited to audio, visual, and streaming equipment. PCC acknowledges that audio, visual, streaming, and other equipment onsite are out-of-date and require updates and replacement to best meet current standards. PCC shall use PEG Capital Funds only for PEG related capital costs.

3. PCC shall work with and defer to City's Information Technology (IT) Department in coordinating upgrades and replacement of equipment and fixtures on City property. Should certain City-owned equipment require upgrades or replacement to meet the specifications of PCC upgrades and replacements, such upgrades and replacements of the City-owned equipment, including but not limited to upgrades and replacements of "handoff" equipment and cabling, shall be paid for solely by PCC from its allocation of PEG Capital Funds. All upgrades and replacements of City-owned equipment shall be owned solely by the City, and PCC shall have no right or interest in the same.

4. PCC shall work with and defer to City's IT Department in creating redundancy routes for audio, visual, and streaming services, such that City is still able to provide the services if PCC's system becomes unavailable for any reason.

INTERGOVERNMENTAL AGREEMENT
WEEKLY COUNCIL MEETING PRODUCTION

THIS AGREEMENT ("Agreement") is made and entered into and effective as of _____, 2023 ("Effective Date"), by and between the State of Colorado, Department of Higher Education, State Board for Community Colleges and Occupational Education, for the use and benefit of Pueblo Community College, located at 900 W. Orman Avenue, Pueblo, Colorado (hereinafter referred to as "PCC"), and the City of Pueblo, a Municipal Corporation, located at 1 City Hall Place, Pueblo, Colorado (hereinafter referred to as "City"). City and PCC may each be referred to herein individually as a "Party" or collectively as the "Parties."

WHEREAS, PCC operates an educational facility and desires to provide occupational education in the field of television production, videography, and broadcasting ("Television Instruction"); and

WHEREAS, PCC and City desire to cooperate in PCC's efforts to provide meaningful Television Instruction to PCC students; and

WHEREAS, under that certain Franchise Agreement between the City of Pueblo and Comcast of Colorado IV, LLC ("Comcast") approved by Ordinance No. 8992 of the City of Pueblo ("Current Franchise"), Comcast has been granted a cable television franchise under which it (a) must activate and make available public, educational, and governmental ("PEG") channels to its subscribers, and (b) must collect and remit PEG access support fees to be used by City solely for PEG capital facilities and equipment ("PEG Capital Funds"); and

WHEREAS, pursuant to Section 9.1 of the Current Franchise, City may designate an entity or entities to manage all or part of the PEG channels ("designated access providers"); and

WHEREAS, a new Franchise Agreement between the City of Pueblo and Comcast is currently being negotiated ("Successive Franchise"), where it is proposed that Comcast be granted a cable television franchise under which it (a) must activate and make available PEG channels to its subscribers, and (b) must collect and remit PEG Capital Funds; and

WHEREAS, PCC has, under purchase orders from City for several years, provided equipment and students enrolled in Television Instruction to provide videography, production and cablecasting of such City Council meetings over Comcast cable channel 17, and the Parties desire to continue to have PCC provide such equipment and services; and

WHEREAS, City desires to continue cablecasting, over the Comcast cable television system, of regular meetings of the City Council and meeting of the executive committee of the City Council which occur on the same days as regular meetings; and

WHEREAS, PCC represents that it is capable and willing to act as a designated access provider for the PEG channels provided under the Current Franchise and Successive Franchise, and City is willing to select PCC as a designated access provider subject to compliance with the terms of this Agreement; and

WHEREAS, the System President of the Board for Community Colleges and Occupational Education, or his or her designee, has been delegated the authority to approve training agreements, to receive services, to use property, and to enter into other agreements so long as they involve less than \$500,000; and

WHEREAS, the System President has designated the College President of Pueblo Community College to enter into such training and other agreements for PCC.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the parties agree as follows:

1. GENERAL AND SCOPE OF SERVICES.

(a) PCC agrees to perform, using its own employees and enrolled PCC students, and any consultants or contractors hired by PCC, the planning, implementation, services, and items of work, and to furnish all labor, equipment, 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 the provisions of this Agreement.

(b) PCC represents that it has the requisite authority and capacity to perform the work and services contemplated in Exhibit "A." To the extent any work or services are provided by consultants or contractors to PCC, PCC shall bind same to the terms of this Agreement, and shall be responsible for their work and services.

(c) PCC agrees that all Television Instruction and services performed under this Agreement by students enrolled at PCC shall be supervised by PCC instructors, and PCC instructors shall supervise students when present upon City's facilities and when programming is released to the Comcast headend.

2. CITY RESPONSIBILITIES.

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

3. FEES FOR SERVICES.

(a) Subject to appropriations therefor, for all videography, acting as PEG access provider, and providing cablecasting, production, studio facilities for PEG use, and all other services described in Exhibit "A," City will pay to PCC the sum of \$4,250.00 per month for each month during the term of this Agreement. PCC shall submit monthly invoices to City in such amount which reference this Agreement. Payment will thereafter be made by City within forty five (45) days after receipt of invoice.

(b) The compensation stated in section 3(a) shall be the only compensation made to PCC for the services under this Agreement, and no additional payment shall be made for overhead expenses, utilities, copying, computer time, supplies, equipment rental, nor other expenses, it being the intent of the Parties that PCC is providing a "turnkey" solution as the City's designated access provider for the PEG channels and as videographer, producer, and programming originator for City Council sessions as set forth in Exhibit "A."

(c) The equipment and fixtures used by PCC for cablecasting purposes shall, when necessary, be replaced or repaired at PCC's sole expense. The Parties further agree that all equipment and fixtures located at City Hall or Memorial Hall which have been used for cablecasting purposes, are and shall remain the sole and exclusive property of the City.

4. TERM OF AGREEMENT.

The term of this Agreement shall be from July 1, 2023 to June 30, 2028, unless sooner terminated as herein provided. This Agreement shall automatically renew for a one (1) year period from July 1, 2028 through June 30, 2029, unless a Party provides at least sixty notice of its intent not to renew prior to June 30, 2028.

5. TERMINATION.

(a) For Cause. This Agreement may be terminated by City for cause, including any material nonperformance by PCC, upon ten (10) days' prior written notice to PCC including a statement of the reasons therefor. During said ten (10) day period, PCC shall either correct the nonperformance or indicate it is unable to remedy the breach.

(b) For Convenience. Either Party may terminate this Agreement upon ninety (90) days' prior written notice to the other Party.

6. ASSIGNABILITY.

This Agreement shall not be assigned nor transferred by either Party without the prior written consent of the other Party. Any assignment or attempted assignment made in violation of this provision shall, at the non-assigning Party's election, be deemed void and of no effect whatsoever.

7. INDEPENDENT CONTRACTOR.

PCC is performing services under this Agreement as an independent contractor, and nothing herein shall be construed to make PCC or any of its agents, employees, or students the agents or employees of City. No student, teacher, PCC employee, parent, personal representative, or other person, firm, or entity shall be granted or have any private right of action, claim, or civil liability remedy against the City or PCC, nor their respective officers, employees, or agents, by virtue of this Agreement. Nothing in this Agreement shall be construed to create any liability, or to waive any of the immunities, limitations on liability or other provisions of the

Governmental Immunity Act, Section 24-10-101 et seq., C.R.S., or to waive any immunities or limitations on liability otherwise available to the City, PCC, or their officers, employees, or agents.

8. LIABILITY.

As to the City, PCC 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 PCC or by the conditions created thereby; provided, however, that nothing in this paragraph is intended, nor should it be construed, to create or extend any rights, claims or benefits or assume any liability for or on behalf any third party, or to waive any immunities or limitations otherwise conferred under or by virtue of federal or state law, including but not limited to the Colorado Governmental Immunity Act, C.R.S. §24-10-101, et seq. PCC shall provide and maintain Workers' Compensation insurance coverage or self-insurance on its employees complying with the requirements of State law. PCC shall be responsible for and ensure the PEG channels and all services meet all applicable accessibility requirements, including but not limited to those set forth in Section 24-85-101 et seq., C.R.S., and Section 24-34-801 et seq., C.R.S.

9. NO CREATION OF DEBT BY CITY.

This Agreement is expressly made subject to the limitations of the Colorado Constitution. Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City Council of Pueblo, contrary to Article X, §20 of the Colorado Constitution or any other constitutional, statutory or charter debt limitation. Notwithstanding any other provision of this Agreement, with respect to any financial obligation of City which may arise under this Agreement, in the event the budget or other means of appropriations for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure shall not constitute a default by or breach of this Agreement, including any attachment or exhibit thereto, by the City. City may in its sole and absolute discretion terminate this Agreement for reasons of non-appropriation immediately upon written notice without causing default or breach.

10. MISCELLANEOUS.

(a) Notices. Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to either Party 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, Attention: Mayor, 1 City Hall Place, 2nd Floor, Pueblo, Colorado 81003, or to PCC, Attention: _____, 900 W. Orman Avenue, Pueblo, Colorado, 81004. Either Party may change its address for the purpose of this paragraph by giving written notice of such change to the other Party in the manner provided in this paragraph.

(b) Entire Agreement. This instrument contains the entire agreement between the Parties concerning the subject matter hereof, and any other written or oral agreement or representation respecting the subject matters hereof or the duties of either Party in relating thereto not expressly set forth in this instrument and its attachments is null and void.

(c) Amendments. No amendments to this Agreement shall be made nor be enforceable unless made by written amendment signed by an authorized representative of each Party.

(d) Equal Employment Opportunity. In connection with the performance of this Agreement, PCC shall not discriminate against any employee or student or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, sexual preference, national origin, disability, or age. PCC 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, marital status, sexual preference, national origin, disability, or age.

(e) Waiver of Breach. A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

(f) Governing Law and Venue. This Agreement shall be governed by 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

(g) Electronic Signatures. 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.

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

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the Effective Date.

STATE OF COLORADO
for the use and benefit of
STATE BOARD FOR COMMUNITY
COLLEGES AND OCCUPATIONAL

By _____
EDUCATION

_____, Governor

By _____

Name: _____

Title: President of Pueblo Community College

APPROVED:
STATE CONTROLLER

By _____

Name: _____

Title: _____

Date: _____

CITY OF PUEBLO,
A MUNICIPAL CORPORATION

Nicholas A. Gradisar, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

(Acting) City Attorney

EXHIBIT "A"

SCOPE OF SERVICES

Generally, PCC shall provide three (3) discrete functions: (1) Serving as the designated access provider for the PEG channels under the Current Franchise and Successive Franchise, (2) Providing studio and PEG programming origination services, and (3) Videography, production, and origination of City Council meetings.

I. Designated Access Provider

PCC shall serve as one of the City's designated access providers under the Current Franchise and Successive Franchise. The other designated access provider shall be Pueblo School District No. 60 ("D-60"). In connection therewith, PCC shall:

1. Schedule and transmit all content to the headend of Comcast for airing on Comcast PEG channels 17 and 19.
2. Manage the PEG channels on behalf of City, subject to general discretion from City. In general, the public use channel ("P") shall be used for public content, the education channel ("E") for educational or instructional content, and the government channel ("G") for governmental content. PCC will be the designated access provider for the P channel and the G channel.
3. In managing the PEG channels, PCC shall make reasonable efforts to not permit commercial programming or advertising; provided that brief recognition of programming sponsors may be made. PCC shall also make all reasonable effort to avoid transmission of libelous, obscene, or otherwise unprotected speech or material prohibited by federal law.
4. Develop rules and regulations for use and management of the PEG channels and submit same to the Mayor for approval. In the event the Mayor requests any changes therein, PCC shall make such changes and resubmit the rules and regulations for approval.
5. Operate and maintain all equipment necessary to support PCC's functions as the designated access provider and to provide videography, production, and origination of City Council meetings.
6. PCC is encouraged to provide channel information to Comcast and Comcast's menu programmer in a timely manner in order to enable the program information to appear in the menu. PCC should obtain the menu provider information directly from Comcast.
7. Make reasonable efforts to provide around-the-clock programming on two PEG channels. Excessive service outages during scheduled programming shall be grounds for termination of the Agreement for cause. PCC shall notify the Mayor if it determines that activation of an additional PEG channel is needed.

8. Promote the use of the PEG channels to content providers and the public.

II. Studio and PEG Origination Services

PCC shall provide a television studio and television production facilities, including all necessary equipment and personnel, in order to record, produce, and transmit original programming content for PEG channels 17 and 19. PCC shall schedule public forum time for studio use and make the studio available to the public during such scheduled periods, consistent with PCC's other studio needs. PCC shall adopt reasonable rules for the use of its studio facilities.

III. Cablecasting City Council Meetings

A. Background. City Council generally conducts regular meetings on the second and fourth Mondays of each month and beginning at 7:00 p.m., except when that day is a City-recognized holiday, in which event the meeting is usually held the following day ("Regular Council Meetings"). City Council usually also holds an executive committee meeting (known as "Work Session") at 5:30 p.m. on the days of Regular Council meetings and on the first and third Mondays of each month.

B. PCC Duties.

1. PCC shall provide cameras, personnel, editing and production equipment, and all other things necessary or desirable to record and transmit to Comcast's headend for viewing on the "G" channel the Regular Council meetings and Work Sessions. PCC shall provide live streaming, recording, and tv broadcasting of all Regular Council meetings and Work Sessions, and will provide quarterly studio recording of Regular Council meetings. City may also request PCC provide such services for up to four (4) additional special meetings of the City Council per year at no additional cost.

2. PCC shall transmit the video and audio content of such Council Meetings without alteration, except that: (a) at the request of the Mayor for good cause, portions of the meetings may be redacted for any rebroadcast, and (b) PCC shall redact any obscene, libelous, or prohibited matters.

3. PCC shall rebroadcast recorded Council Meetings at such times as it deems appropriate and consistent with its scheduling of other programming on the "G" channel.

4. At such time as City or PCC obtains closed-captioning abilities, PCC shall transmit same to Comcast with the live event cablecast as well as re-cablecasts of Council Meetings. PCC shall be responsible for and ensure the PEG channels and all services meet applicable accessibility requirements.

C. PCC (also hereinafter referred to as "CNM") is to provide the following services at the rate Agreed upon in Section 3(a) of this Agreement. City shall not be liable for any costs,

fees, or payments not set forth in Section 3(a) of this Agreement.

1. First Monday of a Month
5:30 PM – Until Concluded. CITY COUNCIL WEEKLY MEETINGS CNM
Production
CNM Production for 1
CNM - Services:
 - City Council Work Session 1 \$625.00
INCLUDES LIVE STREAMING, RECORDING AND TV
BROADCASTING
 - Studio Recording 1 \$500.00
QUARTERLY STUDIO RECORDING
2. Second Monday of a Month
5:30 PM - Until Concluded. CITY COUNCIL WEEKLY MEETINGS CNM
Production
CNM Production for 1
CNM - Services:
 - City Council Work Session 1 \$625.00
INCLUDES LIVE STREAMING, RECORDING AND TV
BROADCASTING
 - City Council Regular Session 1 \$625.00
INCLUDES LIVE STREAMING, RECORDING AND TV
BROADCASTING
3. Third Monday of a Month
5:30 PM – Until Concluded. CITY COUNCIL WEEKLY MEETINGS CNM
Production
CNM Production for 1
CNM - Services:
 - City Council Work Session 1 \$625.00
INCLUDES LIVE STREAMING, RECORDING AND TV
BROADCASTING
4. Fourth Monday of a Month
5:30 PM - Until Concluded. CITY COUNCIL WEEKLY MEETINGS CNM
Production
CNM Production for 1
CNM - Services:
 - City Council Work Session 1 \$625.00
INCLUDES LIVE STREAMING, RECORDING AND TV
BROADCASTING
 - City Council Regular Session 1 \$625.00
INCLUDES LIVE STREAMING, RECORDING AND TV
BROADCASTING

Total for all CNM Services:

\$4,250.00



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE APPROVING A PUBLIC ART DONATION AGREEMENT BETWEEN LATKA STUDIOS, LLC., A COLORADO LIMITED LIABILITY COMPANY AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, RELATING TO THE DONATION OF ARTWORK FOR PUBLIC ENJOYMENT AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

SUMMARY:

Attached is an Ordinance approving a Public Art Donation Agreement between Latka Studios, LLC., and the City of Pueblo, related to the donation of a metal sculpture to be installed in the roundabout at the intersection of Midway Avenue and Lamar Avenue for public enjoyment.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Latka Studios, LLC., has requested to install a metal sculpture in the center of the intersection at Midway Avenue and Lamar Avenue. The installation of the proposed sculpture will include new curb and gutter, lighting, and a concrete foundation. The City will install new traffic control striping and signage to facilitate safe traffic operations around the roundabout.

FINANCIAL IMPLICATIONS:

Latka Studios will donate the sculpture to the City of Pueblo at no cost and will be responsible for the installation and maintenance of the artwork for a period of two years while it is on public display. After the two-year maintenance period has expired, the City of Pueblo may, at its discretion, opt to continue displaying the artwork, or remove the artwork. In such case, the City of Pueblo will be responsible for all costs associated

with the maintenance of the artwork after the donor's two-year maintenance period expires.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Denial of this agreement will result in the City of Pueblo being unable to accept the donated artwork from Latka Studios, LLC.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Latka Studios - Public Art Donation Agreement (final)

ORDINANCE NO. 10526

AN ORDINANCE APPROVING A PUBLIC ART DONATION AGREEMENT BETWEEN LATKA STUDIOS, LLC., A COLORADO LIMITED LIABILITY COMPANY AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, RELATING TO THE DONATION OF ARTWORK FOR PUBLIC ENJOYMENT AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

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

SECTION 1.

The Public Art Donation Agreement ("Agreement") by and between Latka Studios, LLC., a Colorado Limited Liability company and the City of Pueblo, a Municipal Corporation, a copy of which is attached hereto and made a part hereof by reference, after having been approved as to form by the Pueblo City Attorney, is hereby approved. The Mayor is hereby authorized to execute said Agreement for and on behalf of the City of Pueblo and the City Clerk's Office is authorized to affix the seal of the City thereto and attest same.

SECTION 2.

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

SECTION 3.

This Ordinance shall become effective immediately upon passage and approval.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on July 24, 2023.

Final adoption of Ordinance by City Council on August 14, 2023.



President of City Council

Action by the Mayor:

☒ Approved on August 17, 2023.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk

PUBLIC ART DONATION AGREEMENT

THIS PUBLIC ART DONATION AGREEMENT ("Agreement") is hereby entered into this ____ day of _____, 2023 by and between the City of Pueblo, a Colorado municipal corporation ("City"), and Latka Studios, LLC, a Colorado limited liability company ("Donor"). City and Donor may be individually referred to herein as "Party" or collectively referred to as "Parties."

WITNESSETH:

WHEREAS, Donor desires to install a metal sculpture ("Artwork") and donate said Artwork to the City for public display and enjoyment;

WHEREAS, Donor represents that she is the sole owner of said Artwork and that she has the right to convey the Artwork and all intellectual property rights, including design and copyright, to City;

WHEREAS, Donor desires to convey the Artwork to City and install the Artwork for public display within the City;

WHEREAS, City agrees to accept ownership of the installed Artwork for public display and enjoyment within the City subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the foregoing and all other covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, all Parties agree as follows:

1. The following terms as used in this Agreement shall have the following meanings:

"Effective Date" refers to the date of this agreement and means the date of final signature of any of the Parties to this Agreement, whichever is latest.

"Installation Date" means the date set forth in the Schedule for which the installation of the Artwork shall commence.

"Installation Deadline" means June 30, 2025 unless such date is extended in writing by the Director of Public Works, which extension shall be made at the sole and absolute discretion of said Director.

"Maintenance and Repair Services" means, without limitation, all actions required so that the Artwork is kept and maintained in a good, clean, safe and operable condition consistent and in compliance with all applicable laws, ordinances, and regulations including but not limited to removing dirt, grime, bird droppings, weeds, graffiti, and repairing minor damage to the Artwork caused by weather, Acts of God, vandalism or any other cause, including damage by a motor vehicle.

“Premises” means the designated area as indicated in Exhibit A, which is attached hereto and incorporated herein.

“Public Art Display” means the Artwork and other installed ancillary improvements shown in the attached Exhibit B, which are located upon the Premises and which may be necessary for the safe public enjoyment of and access to the Artwork.

“Schedule” means the schedule for installation of the Artwork as required by this Agreement.

2. Within one hundred-eighty (180) days of the Effective Date of this Agreement, Donor shall provide City with the Schedule. The Schedule shall be subject to review and approval by City. Following approval of the Schedule by City, any subsequent changes must be approved by City before installation may commence. It is expressly acknowledged and agreed that the placement or location of the Artwork upon City property or within a public right-of-way must be approved by the City’s Director of Public Works.

3. Subject to and conditioned upon the approval of the Schedule, City agrees to allow Donor to install the Public Art Display (or to have the Public Art Display installed) upon the Premises.

4. Upon installation of the Public Art Display by Donor and written acceptance of the installed Artwork by City, ownership of the Artwork and all intellectual property rights, including design and copyright, shall be conveyed to and become the property of City. Risk of loss or damage to the Artwork will be borne by Donor until the Artwork is installed and accepted by City. For two (2) years following the Installation Date, Donor agrees to perform Maintenance and Repair Services for the Artwork at her sole expense. For two (2) years following the Installation Date, City agrees to retain ownership of the Artwork, and all rights attached thereto, and except as provided in Paragraph 9 below, City agrees to coordinate with Donor to ensure public access to and enjoyment of the Artwork.

5. City shall provide and maintain roadway striping and fabricate, install, and maintain traffic control signs necessary to facilitate safe and efficient traffic operations in the right-of-way surrounding the Public Art Display. All other proposed improvements shown in Exhibit A shall be installed at Donor’s sole expense including, but not limited to, the Artwork, curb and gutter, lighting, landscaping, hardscaping, asphalt patching, and other related work as part of the

6. If for any reason City refuses to accept the installed Artwork, Donor shall retain ownership of the Artwork and shall be responsible for removing the Artwork from the Premises at her sole expense within forty-five (45) days after notice by City. Donor **shall not** be responsible for removing installed concrete or asphalt pavements curb and gutter, striping, or any installed landscaping improvements.

7. If Donor fails to install the Artwork prior the Installation Deadline, City’s obligations under this Agreement shall terminate, and Donor shall return the Premises to their original conditions except Donor shall not be responsible for removing installed concrete or asphalt pavements curb and gutter, striping, or any installed landscaping improvements.

8. Donor agrees to indemnify, defend, save and hold harmless the City, its respective agents,

officers, directors, employees and representatives from and against any and all claims, suits, losses, injuries, damages, liabilities and expenses, including, without limitation, reasonable attorneys' fees and expenses occasioned in connection with, arising or alleged to arise from, wholly or in part, the Maintenance and Repair Services provided by Donor under this Agreement.

9. If Donor is unable or unwilling to provide Maintenance and Repair Services, if Artwork or Public Art Display becomes a nuisance, or if Artwork is damaged and repair or restoration costs exceed reasonable economic value for the replacement of the Artwork, City may remove and dispose of the Artwork at its sole discretion. If Artwork is removed by City for any of the conditions specified within this Paragraph 8 within the two-year period following the acceptance of the Artwork by City, City shall provide written notice to Donor of its decision.

10. No term or provision of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, benefits, rights, protections, or any other provision of the Colorado Governmental Immunity Act, sections 24-10-101 and 120, C.R.S., as amended, or any other law granting immunity to the City and each of its respective officers and employees.

11. This Agreement sets forth all understandings and agreements between the Parties relating to the subject matter hereof. No modification or amendment to this Agreement shall be valid unless set forth in writing and approved by the Parties. No verbal representation, agreement or understanding by any officer or employee of the City, either before or after execution of this Agreement, shall modify or amend any of the terms and provisions of this Agreement.

12. The provisions of this Agreement are for the benefit of the named Parties only, and no third party shall have any right or remedy hereunder or the right to enforce any provision of this Agreement.

13. This Agreement shall be construed in accordance with and be governed by the laws of the State of Colorado without regard to conflict of law principles.

14. Time is of the essence hereof. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns, provided Donor may not assign this Agreement or any interest herein without the express written consent of City.

15. In no event shall the City, its officers, agents or employees, be liable to Donor for damages, including without limitation, compensatory, punitive, indirect, special or consequential damages, resulting from or arising out of or related to this Agreement or the performance or breach thereof by City, or the failure or delay of City in the performance of any covenant or provision under this Agreement on its part to be performed. In consideration of City entering into this Agreement, Donor hereby waives and discharges City, its officers, agents and employees from all claims for any and all such damages. No breach, default, delay or failure of City under this Agreement shall be or be construed to be a waiver, discharge or release of Donor's obligations under this Agreement.

16. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the other provisions of this Agreement which shall remain in full force and effect.

17. Each Party acknowledges that this Agreement was fully negotiated by the Parties and, therefore, no provision of this Agreement shall be interpreted against any Party because such Party or its legal representative drafted such provision.

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

19. This Agreement may be executed in one (1) or more counterparts, and each such counterpart shall be deemed for all purposes to be an original, and all such counterparts shall together constitute but one and the same original.

SIGNATURE PAGE

ATTEST:

CITY OF PUEBLO

By: _____
Marisa Stoller, City Clerk

By: _____
Mayor Nicholas A. Gradisar

Date: _____

Date: _____

[S E A L]

LATKA STUDIOS, LLC

By:

Jean Latka
Jean Latka, President

Date:

8/15/2023

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this 15 day of August, 2023, by Jean Latka as President, Latka Studios, LLC.

Witness my hand and official seal.

[SEAL]

My commission expires November 20, 2023.

**GERALDINE JACQUELINE ROQUE
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20194043857
MY COMMISSION EXPIRES 11/20/2023**

Geraldine Jacqueline Roque
Notary Public

EXHIBIT A

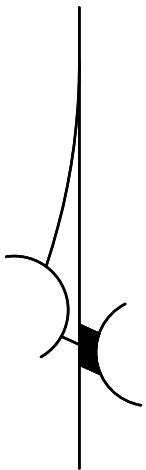


SEE "STANDARD CONSTRUCTION SPECIFICATIONS AND STANDARD DETAILS" FOR CITY OF PUEBLO, COLORADO SHEET SD6 DETAIL "C" FOR HANDICAP RAMP DETAILS.

ALL NEW CONSTRUCTION TO CONFORM TO "STANDARD CONSTRUCTION SPECIFICATIONS AND STANDARD DETAILS" FOR CITY OF PUEBLO, COLORADO (MARCH 28, 2005).

ALL ASPHALT REMOVED IS TO BE REPLACED TO MEET CITY OF PUEBLO STANDARD SPECIFICATIONS.

THIS CONSTRUCTION PLAN COMPLIES WITH ALL CITY OF PUEBLO DESIGN STANDARDS WITH THE MOST CURRENT STANDARD CONSTRUCTION SPECIFICATIONS AND STANDARD DETAILS.



REVIEWED FOR GENERAL COMPLIANCE WITH BOARD OF WATER WORKS STANDARDS

BY: _____ DATE: _____

REVIEWED FOR GENERAL COMPLIANCE WITH CITY OF PUEBLO STANDARDS

GENERAL _____ DATE _____
SANITARY SEWER _____ DATE _____
DRAINAGE _____ DATE _____
TRANSPORTATION _____ DATE _____

MIDWAY AVENUE AND LARMAR AVENUE

TRAFFIC CIRCLE PLAN SHEET

PROJECT NAME

SHEET TITLE

NORTHSTAR
ENGINEERING AND SURVEYING, INC.
111 E. 8TH ST., PUEBLO, CO. 81003
TEL: (719) 244-0825 FAX: (719) 244-0825

PREPARED UNDER THE DIRECT SUPERVISION OF MICHAEL LELAND CUPPY, P.E., COLORADO REGISTRATION NO. 40201.

HOR. SCALE: 1"=10'

VERT. SCALE: N/A

DATE: 06-21-23

DESIGN BY: MLC

DRAWN BY: MLC

CHECKED BY: MLC

FILE: MIDWAY_TRAFFIC.DWG

JOB NO. 2102100

REVISED BY	REVISION	DATE	MARK	REVIEWED BY	DATE



EXHIBIT A – Premises/Location Map

Location of
Proposed Sculpture

EXHIBIT B – Public Art Display Concept and Improvement Drawings



Exhibit B - Public Art Display Concept and Improvement Drawings

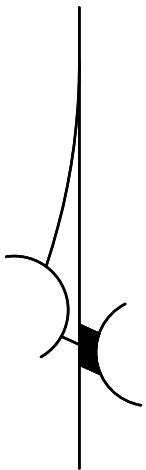


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THIS CONSTRUCTION PLAN COMPLIES WITH ALL CITY OF PUEBLO DESIGN STANDARDS WITH THE MOST CURRENT STANDARD CONSTRUCTION SPECIFICATIONS AND STANDARD DETAILS.



REVIEWED FOR GENERAL COMPLIANCE WITH BOARD OF WATER WORKS STANDARDS

BY: _____ DATE: _____

REVIEWED FOR GENERAL COMPLIANCE WITH CITY OF PUEBLO STANDARDS

GENERAL _____ SANITARY SEWER _____ DATE _____

DRAINAGE _____ TRANSPORTATION _____ DATE _____

MIDWAY AVENUE AND LARMAR AVENUE

TRAFFIC CIRCLE PLAN SHEET

PROJECT NAME

SHEET TITLE

NORTHSTAR
ENGINEERING AND SURVEYING, INC.
111 E. 8TH ST., PUEBLO, CO. 81003
TEL: 719.244.0825 FAX: 719.244.0825

PREPARED UNDER THE DIRECT SUPERVISION OF
MICHAEL LELAND CUPPY, P.E.,
COLORADO REGISTRATION NO. 40201.

HOR. SCALE: 1"=10'
VERT. SCALE: N/A

DATE: 06-21-23
DESIGN BY: MLC
DRAWN BY: MLC

CHECKED BY: MLC
FILE: MIDWAY_TRAFFIC.DWG

JOB NO. 2102100

REVISED BY	REVISION	DATE	MARK	REVIEWED BY	DATE



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 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 APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE COUNTY OF PUEBLO, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO, RELATING TO THE 2023 GENERAL MUNICIPAL ELECTION

SUMMARY:

This Ordinance approves an Intergovernmental Agreement with Pueblo County to perform the functions required in the Administration of the November 7, 2023 General Municipal Election to be conducted as a Coordinated Election and Mail Ballot Election.

PREVIOUS COUNCIL ACTION:

On June 26, 2023 City Council approved an Ordinance directing that the November 7, 2023 General Municipal Election be conducted as part of a Coordinated Election with Pueblo County.

Pursuant to §1-1-111(2), C.R.S., the City may 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. The City has approved an IGA for Election Services each year the City has participated in a Coordinated Election with the County.

BACKGROUND:

The City is a home-rule city charged with the responsibility of providing for and governing the conduct of all its municipal elections pursuant to Articles 2, 3, 17, 18 and 19 of its Charter and Article XX of the Colorado Constitution. Section 1-7-116 C.R.S. requires entry into and performance of an intergovernmental agreement where political subdivisions and the County Clerk and Recorder cooperate in the conduct and financing of the election. The IGA outlines the allocation of the responsibilities between

the City and the County in the conduct of the election.

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 cost is estimated to be between \$100,000 and \$120,000. Funding for the costs associated with conducting the General Municipal Election have been allocated in the City Clerk's 2023 Departmental Budget.

BOARD/COMMISSION RECOMMENDATION:

It has been determined by the Board of Elections, that it is in the best interest of the City and its residents to participate in and conduct its election as a coordinated election and mail ballot election in accordance with the procedures and requirement of the Uniform Election Code of 1992, except to the extend same conflict with a specific provision of the City Charter.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

None. Per Section 17-2 of the City Charter general municipal elections shall be held on the First Tuesday in November. It is more cost effective for the City to participate in a Coordinated Election than for the City to independently conduct its own election.

RECOMMENDATION:

Approval of the Ordinance

ATTACHMENTS:

1. 2023 Election City-County IGA - Redlined 7/28/23

ORDINANCE NO. 10527

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE COUNTY OF PUEBLO, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO, RELATING TO THE 2023 GENERAL MUNICIPAL ELECTION

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

SECTION 1.

The Intergovernmental Agreement for election services between the City of Pueblo, a Colorado municipal corporation and the County of Pueblo, a political subdivision of the State of Colorado, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved

SECTION 2.

The Mayor is hereby authorized to execute said Intergovernmental 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 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 July 24, 2023.

Final adoption of Ordinance by City Council on August 14, 2023.



President of City Council

Action by the Mayor:

☒ Approved on August 17, 2023.

☐ Disapproved on _____ based on the following objections:

Hilda Leaking

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

ly steel

City Clerk

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2023, between Pueblo County, a political subdivision of the State of Colorado, on behalf of the Clerk and Recorder of Pueblo County, hereinafter referred to as the "County Clerk," and the City of Pueblo, a Colorado Municipal Corporation, hereinafter referred to as "City."

WITNESSED:

WHEREAS, the City is a home-rule city charged with the responsibility of providing for and governing the conduct of all of its municipal elections pursuant to Articles 2, 3, 17, 18, and 19 of its Charter and Article XX of the Colorado Constitution; and

WHEREAS, the County Clerk has the facilities to perform the functions required in the administration of those elections and is authorized to conduct elections as provided by law; and

WHEREAS, Colorado Constitution Article XIV, Section 18 (2)(a), and C.R.S. § 29-1-203, as amended, authorize the County Clerk and the City to cooperate or contract with each other to provide any function, service, or facility lawfully authorized to each; and

WHEREAS, by Ordinance enacted on June 26, 2023, the City has determined that it is in the best interests of the City and its residents to participate in and conduct its election to be held on November 7, 2023, as a "coordinated election" and "mail ballot election" in accordance with the procedures and requirements of the Uniform Election Code of 1992 and related rules and regulations promulgated by the Colorado Secretary of State (collectively, "the Code"), except to the extent same conflict with a specific provision of the Charter; and

WHEREAS, C.R.S. § 1-7-116, the Code requires entry into and performance of intergovernmental agreements where political subdivisions and the county clerk and recorder cooperate in the conduct and financing of the election and provide for reasonable sharing of costs; and

WHEREAS, the Constitution of Colorado, Article X, Section 20 and the Code, require the production of a mailed Notice ("TABOR Notice") concerning certain ballot issues that may be submitted to the electors of the City; and

WHEREAS, the TABOR Notices of several jurisdictions are to be sent as a package where jurisdictions overlap ("TABOR Notice Package"); and

WHEREAS, the need to produce the TABOR Notice Package requires that there be County-wide coordination of the production and mailing of the TABOR Notice Package to effectuate the purposes of said constitutional section; and

WHEREAS, the County Clerk and Recorder of Pueblo County and the City desire to set forth their respective responsibilities in the production and mailing of the TABOR Notice Package for elections conducted pursuant to this Intergovernmental Agreement; and

WHEREAS, the County Clerk and the City have determined that it is in the best interests of the County, the City, and their respective inhabitants and landowners to cooperate and contract concerning the coordinated election on November 7, 2023 upon the terms and conditions contained

herein.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and promises contained herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

I. GENERAL MATTERS:

A. Purpose:

The purpose of this Agreement is to set forth the tasks to be completed by the County Clerk and the City in the conduct and financing of the November 7, 2023 election.

B. Coordinated Election Official and Other Election Personnel:

Except as otherwise provided in this Section, the County Clerk shall act as the Coordinated Election Official for the conduct of the election for the City for all matters in the Code which require action by the Coordinated Election Official, except to the extent such action must be performed by the City Clerk or City's Board of Elections pursuant to Charter requirements and except as otherwise provided in this Agreement.

The City designates Marisa Stoller, City Clerk, as its "Designated Election Official" who, together with the City's Board of Elections, shall be the primary liaison between the City and the County Clerk and who shall have the primary responsibility for the conduct of the election procedures to be handled by the City hereunder and who shall cooperate with the County Clerk in the conduct of the election.

C. The County Clerk shall conduct the coordinated election on November 7, 2023 in conformity with the Code. The City shall provide explicit written instruction to County Clerk regarding any action City determines the County Clerk must perform that is required by the City Charter and which conflicts with the Code. With respect to the November 7, 2023 election, the Parties have communicated in advance of this Agreement and have determined that no deviations from the Code are currently being requested.

D. The parties acknowledge that for the purposes of the coordinated election on November 7, 2023, regardless of any registration requirements in the City Charter or City Code, the County Clerk will decide who is eligible to receive ballots pursuant to C.R.S. §1-2-101.

E. The parties acknowledge that all interpretations of the City Charter and City Code shall be and remain the sole responsibility of, and are to be exclusively handled by, the City.

II. DUTIES OF THE COUNTY CLERK:

The County Clerk shall perform the following duties for the City in connection with the conduct of the coordinated election to the extent required:

- A. Determine the "least cost" method for mailing the TABOR Notice Package.
- B. Combine the text of the TABOR Notice produced by the City, if any, with those of other jurisdictions to produce the TABOR Notice Package. The County Clerk may determine the order of the TABOR Notice submitted by the City and those of other jurisdictions to be included in the TABOR Notice Package, provided, however, that the materials supplied by the City shall be kept together as a group and in the order supplied by the City, unless as otherwise required by the Code.
- C. Address the TABOR Notice package to "all registered voters" at each address of one or more active registered electors of the City. Nothing herein shall preclude the County Clerk from sending the TABOR Notice or Notice Package to persons other than electors of the City if such sending arises from the County Clerk's efforts to mail the TABOR Notice Package at "least cost".
- D. Mail the TABOR Notice Package, as required by the Code.
- E. Provide the final layout of the mail ballots and official ballots to the City in order to permit the City to review, proofread, and approve before the County Clerk authorizes the printing of the ballots. Within twenty-four (24) hours of receipt of ballots from County Clerk, the City shall return the ballots following review, proofreading and approval.
- F. Arrange for the printing, and have printed, all mail ballots and official ballots. In consultation with the Designated Election Official, the County Clerk will order the number of ballots reasonably expected to be required to be printed for each Voter Service Poling Center ("VSPC").
- G. Mail to all active registered electors eligible to vote in the City's November 7, 2023 coordinated election at the last mailing address appearing in the County Clerk's records, a mail ballot packet, as required by law.
- H. Appoint, train, pay and as required by law, provide written materials to a sufficient number of qualified election judges to adequately serve the number of electors anticipated to vote in the coordinated election. The election judges for the City election may be the same persons as are employed for elections held by other jurisdictions on the same day and at the same VSPC(s).
- I. Conduct such formal training sessions for the election judges as deemed reasonably

necessary by the County Clerk.

- J. Perform all services necessary for mail ballot in the City's coordinated election, including preparing of mail ballots and mail ballot voter materials, and receiving and processing of applications for mail ballots, mailing mail ballot materials, receipt of mail ballot materials, checking voter qualifications, and preparation for counting, opening, and conduct of the VSPC(s).
- K. Oversee the performance of the election judges with respect to their posting duties of required sample ballot, instruction cards, precinct maps, and other interior VSPC(s) postings as may be required by law.
- L. Certify the results of the City's election within the time required by law and forthwith provide the City with a copy of all election statements and certificates which are to be created under the Code and provide City with election abstracts and official certifications in such number as the City may reasonably require.
- M. Store all voted ballots for a minimum of twenty-five (25) months and all signature cards of electors who cast ballots at the election for a minimum of twenty-five (25) months, and all other materials required by law to be saved for twenty-five (25) months. If necessary, in connection with or to resolve any challenge, suit, or other legal question that might arise regarding the election, the City requires access to stored ballots, the County Clerk shall cooperate with the City to provide appropriate access to the same.
- N. Facilitate special accommodations for all military and overseas citizens as provided by the Uniformed and Overseas Citizens Absentee Voting Act.
- O. Conduct a recount of any contest where the final ballot tabulation mandates a recount under C.R.S. § 1-10.5-101 or if requested by an interested party C.R.S. § 1-10.5-106.

III. ELECTION COSTS:

- A. County Clerk shall keep a careful, accurate, and contemporaneous accounting of time, supplies, and salaries chargeable to the City including
 - 1. Charging the City for that portion of staff time, including salary and benefits, directly attributable to conducting the coordinated election on behalf of the City and that portion of building rental, both for set-up and VSPC's and materials directly attributable to the City for the preparation and conduct of the coordinated election.
 - 2. Charging the City for the cost of election and mail ballot judges, provided, however, that such cost shall be prorated by multiplying the number of

judges and dividing the result by the number of jurisdictions utilizing each VSPC.

3. The cost of any recount(s) will be charged and prorated among each of the participating Public Entities involved in the recount.
- B. Adhere to all applicable provisions of the Code which are necessary or appropriate to the performance of the above duties.

IV. DUTIES OF THE CITY:

In consideration of the foregoing, the City agrees to perform the following tasks and activities to the extent required:

- A. Provide the County Clerk all TABOR Notices concerning City ballot issues in the manner required by the Code on or before September 25, 2023, by 4:30 p.m. Such TABOR Notice shall include:
 1. ~~The election date, hours, ballot title, text, and the City's local election office address and the City's election office telephone number~~
~~The election date, hours, ballot title, text, and local election office address and telephone number.~~
 2. For proposed City tax or bonded debt increases, the estimated or actual total of City fiscal year spending for the current year and each of the past four years and the overall percentage and dollar change.
 3. For the first full fiscal year of each proposed City tax increase, City estimates of the maximum dollar amount of each increase and of district fiscal year spending without the increase.
 4. For proposed City bonded debt, its principal amount and maximum annual and total district repayment cost and the principal balance of total current City bonded debt and its maximum annual and remaining total City repayment cost.
 5. Two summaries, up to five hundred (500) words each, one for and one against any ballot proposal, of written comments filed with the Designated Election Official. The summary shall neither mention names of persons or private groups nor make any endorsements of or resolutions against the proposal. Petition representatives following these rules shall write this summary for their petition. The Designated Election Official shall maintain and accurately summarize all other relevant written comments.
 6. Summarize written comments concerning ballot issues following receipt of such comments received from the Designated Election Official and the

public as necessary for use in the TABOR Notice.

7. A completed TABOR Notice shall be provided to the County Clerk in Microsoft Word format. Regardless of the total number of pages, the submission to the County Clerk shall be on one side of each page. This submission shall be in the form that shall be printed by the County Clerk and may not be changed by the City following submission to the County Clerk without special written dispensation from the County Clerk (such dispensation may be withheld for any or no reason) and shall be provided to the County Clerk on or before September 25, 2023.
- B. Perform such acts as may be required by law or the City Charter, including circulation, approval, review, and all other activities, relating to any matter that may concern the City. The Designated Election Official shall interact with any City petition representatives, including but not limited to, working to ensure that the Designated Election Official receives the summary of written comments for their petition within the time required by law.
 - C. Certify the complete ballot content to the County Clerk, on or before September 8, 2023; review, proofread, and approve the final ballot and provide to the County in the same manner set forth, within the time required by law and provide the ballot content in hard copy and in Microsoft Word format.
 - D. Review, proofread and confirm the layout, format, and text of the official ballots within twenty-four (24) hours of receipt before the County Clerk authorizes the printing of the ballots.
 - E. Pay to the County Clerk the City's share of the actual cost of materials and services specified in items 1-10 of this Section, Paragraph E. upon receipt of the itemized statement for same. (The City agrees to compensate the County Clerk on a prorated basis for costs not solely related to the City's election, and to pay full cost of materials and services solely related to the City's election). The City represents that funds have been appropriated for this Election and are sufficient to compensate the County Clerk for the services described in this Agreement.
1. Actual costs of services, materials, and mileage associated with the conduct of the election. Actual costs include, but are not limited to, the costs of labor, printing, and materials itemized, identified, and consumed for the conduct of the City's election. The actual cost of labor includes the actual hourly wage, including overtime whether paid or provided as compensatory time, and all associated benefits paid to each staff member, which are directly attributable to conducting the coordinated election on behalf of City.
 2. Actual costs for a complete alphabetical listing of electors, in electronic format.

3. Actual costs for alphabetical listing by precinct.
 4. Actual costs for election preparation, set-up and tabulation and processing charge.
 5. Actual costs of building rental for set-up activities and VSPC.
 6. Actual costs for election and mail ballot judges.
 7. Actual costs of preparation and publication of all notices required by the Election Code.
 8. Actual cost of preparing and printing the ballots.
 9. Actual costs for all mailings.
 10. Any other cost or expense shall be as mutually agreed to between the City and the County Clerk. Such agreement shall be in writing and signed by both parties in compliance with Section VI., Paragraph B. herein.
- F. Within the time frames established by C.R.S. § 1-10-201, the City shall appoint two (2) members to serve on the Canvass Board. Clerk and Recorder shall be a member of the Canvass Board, as well as two (2) appointees of any other political subdivision that is participating in the election.
- G. Provide a current, accurate map with a legal description of the City and its boundaries. In addition, the City shall provide necessary GIS data to reflect its current boundaries.
- H. The City and its Designated Election Official shall cooperate with the Coordinated Election Official in the conduct of all dates and responsibilities of the Coordinated Election Official in the conduct of the election.
- I. The City shall notify County Clerk in writing regarding actions City requests County Clerk to undertake when provisions of the City Code or Charter conflict with the Uniform Election Code.
- I. The City shall be solely liable in the event the conduct of the Election does not conform with the City Charter or City Code.

V. TERM/TERMINATION:

This Agreement is intended to apply to the November 7, 2023 election.. The effective date

of this Agreement is upon the signatures of the parties to this Agreement, except as to those activities mandated by statute, and shall automatically terminate on February 29, 2024. provided, however, that the County Clerk's record retention obligations provided in Section II., Paragraph M., shall survive termination.

VI. OTHER:

A. CANCELLATION OF ELECTION BY THE CITY:

In the event that the City, at some time after the effective date of this Agreement, resolves not to hold the election, then notice of such resolution shall be provided to the County Clerk immediately. The City shall promptly pay the County Clerk the full actual costs of the activities of the County Clerk, relating to the City's costs associated with the election, both before and after the County Clerk's receipt of such notice. The City shall publish notice, as defined in the Code, of such cancellation in at least two (2) newspapers of general circulation in Pueblo County. The County Clerk shall post notice of the cancellation in the Office of the County Clerk and the Contact Officer shall post notice of the cancellation on the official bulletin board located in the lobby of City Hall, #1 City Hall Place, Pueblo, CO 81003. The City shall not cancel the election after September 4, 2023. This section is not intended to affect nor apply to any initiated matter deemed cancelled pursuant to C.R.S. § 31-2-210(3.5).

B. This Agreement is for the November 2023 coordinated election only. In the event the City's Code or Charter provides for a run-off election, and a run-off election becomes necessary, the County Clerk will not conduct that election for the City.

C. This Agreement constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, representation, and understandings between them. All duties, services, labor expenses, and costs needed or required in connection with this election that are attributable to the City, other than those specified above or by amendment to this Agreement, shall be provided by, and be the sole responsibility of, the City. No variation or modification of this Agreement and no waiver of any of the Agreement's provisions or conditions will be binding unless made in writing and signed by duly authorized owners, principals, or officers of the City and Pueblo County. This Agreement shall be construed and enforced according to the laws of the State of Colorado.

This Agreement shall be binding upon and inure to the benefit of the parties to it and their respective legal representatives, successors, and assigns. Any delegation or assignment of this Agreement by either party without the prior written consent of the other party shall be void. The subject headings of the paragraphs of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of its provisions.

D. Except as set forth elsewhere in this paragraph, all notices to be given in this

Agreement shall be made in writing and shall be sufficient if delivered personally due to the need for timely transmission of information to the other party at the following addresses:

Pueblo County Clerk and Recorder
Attention: Candace Rivera
Pueblo County Election Division 201 West Eighth Street, 7th Floor
Pueblo, CO 81003
719-583-4622

and

City of Pueblo
Attention: Marisa Stoller, City Clerk
#1 City Hall Place
Pueblo, CO 81003
719-553-2669

E. CONFLICT OF AGREEMENT WITH LAW:

In the event that any provision of this Agreement conflicts with the Code or other statutory or regulatory law, this Agreement shall be modified to conform to such law. No subsequent resolution of the Board of County Commissioners or of the City shall impair the rights of the County Clerk or the City hereunder without the consent of the other party to this Agreement except as provided by Section V. herein.

F. TIME OF THE ESSENCE:

Time is of the essence of this Agreement. The statutory time requirements of the Code shall apply to the completion of the tasks required by this Agreement except as those time requirements are specifically modified in this Agreement as a result of the provisions in the City Charter.

G. GOOD FAITH:

The parties shall implement this Agreement in good faith including acting in good faith in all matters that require joint or coordinated action.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement effective the day and year first written above.

ATTEST:

PUEBLO COUNTY, COLORADO

By: _____
Clerk to the Board

By: _____
Chairman, Board of County Commissioners

Date: _____

ATTEST:

**CITY OF PUEBLO,
A MUNICIPAL CORPORATION**

By: _____
City Clerk

By: _____
Mayor

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

By: _____
City Attorney's Office

By: _____
Pueblo County Clerk and Recorder

Date: _____

Date: _____

By: _____
Pueblo County Attorney's Office

Date: _____

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2023, between Pueblo County, a political subdivision of the State of Colorado, on behalf of the Clerk and Recorder of Pueblo County, hereinafter referred to as the "County Clerk," and the City of Pueblo, a Colorado Municipal Corporation, hereinafter referred to as "City."

WITNESSED:

WHEREAS, the City is a home-rule city charged with the responsibility of providing for and governing the conduct of all of its municipal elections pursuant to Articles 2, 3, 17, 18, and 19 of its Charter and Article XX of the Colorado Constitution; and

WHEREAS, the County Clerk has the facilities to perform the functions required in the administration of those elections and is authorized to conduct elections as provided by law; and

WHEREAS, Colorado Constitution Article XIV, Section 18 (2)(a), and C.R.S. § 29-1-203, as amended, authorize the County Clerk and the City to cooperate or contract with each other to provide any function, service, or facility lawfully authorized to each; and

WHEREAS, by Ordinance enacted on June 26, 2023, the City has determined that it is in the best interests of the City and its residents to participate in and conduct its election to be held on November 7, 2023, as a "coordinated election" and "mail ballot election" in accordance with the procedures and requirements of the Uniform Election Code of 1992 and related rules and regulations promulgated by the Colorado Secretary of State (collectively, "the Code"), except to the extent same conflict with a specific provision of the Charter; and

WHEREAS, C.R.S. § 1-7-116, the Code requires entry into and performance of intergovernmental agreements where political subdivisions and the county clerk and recorder cooperate in the conduct and financing of the election and provide for reasonable sharing of costs; and

WHEREAS, the Constitution of Colorado, Article X, Section 20 and the Code, require the production of a mailed Notice ("TABOR Notice") concerning certain ballot issues that may be submitted to the electors of the City; and

WHEREAS, the TABOR Notices of several jurisdictions are to be sent as a package where jurisdictions overlap ("TABOR Notice Package"); and

WHEREAS, the need to produce the TABOR Notice Package requires that there be County-wide coordination of the production and mailing of the TABOR Notice Package to effectuate the purposes of said constitutional section; and

WHEREAS, the County Clerk and Recorder of Pueblo County and the City desire to set forth their respective responsibilities in the production and mailing of the TABOR Notice Package for elections conducted pursuant to this Intergovernmental Agreement; and

WHEREAS, the County Clerk and the City have determined that it is in the best interests of the County, the City, and their respective inhabitants and landowners to cooperate and contract

concerning the coordinated election on November 7, 2023 upon the terms and conditions contained herein.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and promises contained herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

I. GENERAL MATTERS:

A. Purpose:

The purpose of this Agreement is to set forth the tasks to be completed by the County Clerk and the City in the conduct and financing of the November 7, 2023 election.

B. Coordinated Election Official and Other Election Personnel:

Except as otherwise provided in this Section, the County Clerk shall act as the Coordinated Election Official for the conduct of the election for the City for all matters in the Code which require action by the Coordinated Election Official, except to the extent such action must be performed by the City Clerk or City's Board of Elections pursuant to Charter requirements and except as otherwise provided in this Agreement.

The City designates Marisa Stoller, City Clerk, as its "Designated Election Official" who, together with the City's Board of Elections, shall be the primary liaison between the City and the County Clerk and who shall have the primary responsibility for the conduct of the election procedures to be handled by the City hereunder and who shall cooperate with the County Clerk in the conduct of the election.

- C. The County Clerk shall conduct the coordinated election on November 7, 2023 in conformity with the Code. The City shall provide explicit written instruction to County Clerk regarding any action City determines the County Clerk must perform that is required by the City Charter and which conflicts with the Code. With respect to the November 7, 2023 election, the Parties have communicated in advance of this Agreement and have determined that no deviations from the Code are currently being requested.
- D. The parties acknowledge that for the purposes of the coordinated election on November 7, 2023, regardless of any registration requirements in the City Charter or City Code, the County Clerk will decide who is eligible to receive ballots pursuant to C.R.S. §1-2-101.
- E. The parties acknowledge that all interpretations of the City Charter and City Code shall be and remain the sole responsibility of, and are to be exclusively handled by, the City.

II. DUTIES OF THE COUNTY CLERK:

The County Clerk shall perform the following duties for the City in connection with the conduct of the coordinated election to the extent required:

- A. Determine the "least cost" method for mailing the TABOR Notice Package.
- B. Combine the text of the TABOR Notice produced by the City, if any, with those of other jurisdictions to produce the TABOR Notice Package. The County Clerk may determine the order of the TABOR Notice submitted by the City and those of other jurisdictions to be included in the TABOR Notice Package, provided, however, that the materials supplied by the City shall be kept together as a group and in the order supplied by the City, unless as otherwise required by the Code.
- C. Address the TABOR Notice package to "all registered voters" at each address of one or more active registered electors of the City. Nothing herein shall preclude the County Clerk from sending the TABOR Notice or Notice Package to persons other than electors of the City if such sending arises from the County Clerk's efforts to mail the TABOR Notice Package at "least cost".
- D. Mail the TABOR Notice Package, as required by the Code.
- E. Provide the final layout of the mail ballots and official ballots to the City in order to permit the City to review, proofread, and approve before the County Clerk authorizes the printing of the ballots. Within twenty-four (24) hours of receipt of ballots from County Clerk, the City shall return the ballots following review, proofreading and approval.
- F. Arrange for the printing, and have printed, all mail ballots and official ballots. In consultation with the Designated Election Official, the County Clerk will order the number of ballots reasonably expected to be required to be printed for each Voter Service Poling Center ("VSPC").
- G. Mail to all active registered electors eligible to vote in the City's November 7, 2023 coordinated election at the last mailing address appearing in the County Clerk's records, a mail ballot packet, as required by law.
- H. Appoint, train, pay and as required by law, provide written materials to a sufficient number of qualified election judges to adequately serve the number of electors anticipated to vote in the coordinated election. The election judges for the City election may be the same persons as are employed for elections held by other jurisdictions on the same day and at the same VSPC(s).

- I. Conduct such formal training sessions for the election judges as deemed reasonably necessary by the County Clerk.
- J. Perform all services necessary for mail ballot in the City's coordinated election, including preparing of mail ballots and mail ballot voter materials, and receiving and processing of applications for mail ballots, mailing mail ballot materials, receipt of mail ballot materials, checking voter qualifications, and preparation for counting, opening, and conduct of the VSPC(s).
- K. Oversee the performance of the election judges with respect to their posting duties of required sample ballot, instruction cards, precinct maps, and other interior VSPC(s) postings as may be required by law.
- L. Certify the results of the City's election within the time required by law and forthwith provide the City with a copy of all election statements and certificates which are to be created under the Code and provide City with election abstracts and official certifications in such number as the City may reasonably require.
- M. Store all voted ballots for a minimum of twenty-five (25) months and all signature cards of electors who cast ballots at the election for a minimum of twenty-five (25) months, and all other materials required by law to be saved for twenty-five (25) months. If necessary, in connection with or to resolve any challenge, suit, or other legal question that might arise regarding the election, the City requires access to stored ballots, the County Clerk shall cooperate with the City to provide appropriate access to the same.
- N. Facilitate special accommodations for all military and overseas citizens as provided by the Uniformed and Overseas Citizens Absentee Voting Act.
- O. Conduct a recount of any contest where the final ballot tabulation mandates a recount under C.R.S. § 1-10.5-101 or if requested by an interested party C.R.S. § 1-10.5-106.

III. ELECTION COSTS:

- A. County Clerk shall keep a careful, accurate, and contemporaneous accounting of time, supplies, and salaries chargeable to the City including
 - 1. Charging the City for that portion of staff time, including salary and benefits, directly attributable to conducting the coordinated election on behalf of the City and that portion of building rental, both for set-up and VSPC's and materials directly attributable to the City for the preparation and conduct of the coordinated election.
 - 2. Charging the City for the cost of election and mail ballot judges, provided,

however, that such cost shall be prorated by multiplying the number of judges and dividing the result by the number of jurisdictions utilizing each VSPC.

3. The cost of any recount(s) will be charged and prorated among each of the participating Public Entities involved in the recount.

- B. Adhere to all applicable provisions of the Code which are necessary or appropriate to the performance of the above duties.

IV. DUTIES OF THE CITY:

In consideration of the foregoing, the City agrees to perform the following tasks and activities to the extent required:

- A. Provide the County Clerk all TABOR Notices concerning City ballot issues in the manner required by the Code on or before September 25, 2023, by 4:30 p.m. Such TABOR Notice shall include:
 1. The election date, hours, ballot title, text, and the City's local election office address and the City's election office telephone number.
 2. For proposed City tax or bonded debt increases, the estimated or actual total of City fiscal year spending for the current year and each of the past four years and the overall percentage and dollar change.
 3. For the first full fiscal year of each proposed City tax increase, City estimates of the maximum dollar amount of each increase and of district fiscal year spending without the increase.
 4. For proposed City bonded debt, its principal amount and maximum annual and total district repayment cost and the principal balance of total current City bonded debt and its maximum annual and remaining total City repayment cost.
 5. Two summaries, up to five hundred (500) words each, one for and one against any ballot proposal, of written comments filed with the Designated Election Official. The summary shall neither mention names of persons or private groups nor make any endorsements of or resolutions against the proposal. Petition representatives following these rules shall write this summary for their petition. The Designated Election Official shall maintain and accurately summarize all other relevant written comments.
 6. Summarize written comments concerning ballot issues following receipt of such comments received from the Designated Election Official and the public as necessary for use in the TABOR Notice.

7. A completed TABOR Notice shall be provided to the County Clerk in Microsoft Word format. Regardless of the total number of pages, the submission to the County Clerk shall be on one side of each page. This submission shall be in the form that shall be printed by the County Clerk and may not be changed by the City following submission to the County Clerk without special written dispensation from the County Clerk (such dispensation may be withheld for any or no reason) and shall be provided to the County Clerk on or before September 25, 2023.
- B. Perform such acts as may be required by law or the City Charter, including circulation, approval, review, and all other activities, relating to any matter that may concern the City. The Designated Election Official shall interact with any City petition representatives, including but not limited to, working to ensure that the Designated Election Official receives the summary of written comments for their petition within the time required by law.
- C. Certify the complete ballot content to the County Clerk, on or before September 8, 2023; review, proofread, and approve the final ballot and provide to the County in the same manner set forth, within the time required by law and provide the ballot content in hard copy and in Microsoft Word format.
- D. Review, proofread and confirm the layout, format, and text of the official ballots within twenty-four (24) hours of receipt before the County Clerk authorizes the printing of the ballots.
- E. Pay to the County Clerk the City's share of the actual cost of materials and services specified in items 1-10 of this Section, Paragraph E. upon receipt of the itemized statement for same. (The City agrees to compensate the County Clerk on a prorated basis for costs not solely related to the City's election, and to pay full cost of materials and services solely related to the City's election). The City represents that funds have been appropriated for this Election and are sufficient to compensate the County Clerk for the services described in this Agreement.
 1. Actual costs of services, materials, and mileage associated with the conduct of the election. Actual costs include, but are not limited to, the costs of labor, printing, and materials itemized, identified, and consumed for the conduct of the City's election. The actual cost of labor includes the actual hourly wage, including overtime whether paid or provided as compensatory time, and all associated benefits paid to each staff member, which are directly attributable to conducting the coordinated election on behalf of City.
 2. Actual costs for a complete alphabetical listing of electors, in electronic format.

3. Actual costs for alphabetical listing by precinct.
 4. Actual costs for election preparation, set-up and tabulation and processing charge.
 5. Actual costs of building rental for set-up activities and VSPC.
 6. Actual costs for election and mail ballot judges.
 7. Actual costs of preparation and publication of all notices required by the Election Code.
 8. Actual cost of preparing and printing the ballots.
 9. Actual costs for all mailings.
 10. Any other cost or expense shall be as mutually agreed to between the City and the County Clerk. Such agreement shall be in writing and signed by both parties in compliance with Section VI., Paragraph B. herein.
- F. Within the time frames established by C.R.S. § 1-10-201, the City shall appoint two (2) members to serve on the Canvass Board. Clerk and Recorder shall be a member of the Canvass Board, as well as two (2) appointees of any other political subdivision that is participating in the election.
- G. Provide a current, accurate map with a legal description of the City and its boundaries. In addition, the City shall provide necessary GIS data to reflect its current boundaries.
- H. The City and its Designated Election Official shall cooperate with the Coordinated Election Official in the conduct of all dates and responsibilities of the Coordinated Election Official in the conduct of the election.
- I. The City shall notify County Clerk in writing regarding actions City requests County Clerk to undertake when provisions of the City Code or Charter conflict with the Uniform Election Code.
- I. The City shall be solely liable in the event the conduct of the Election does not conform with the City Charter or City Code.

V. TERM/TERMINATION:

This Agreement is intended to apply to the November 7, 2023 election.. The effective date of this Agreement is upon the signatures of the parties to this Agreement, except as to those

activities mandated by statute, and shall automatically terminate on February 29, 2024. provided, however, that the County Clerk's record retention obligations provided in Section II., Paragraph M., shall survive termination.

VI. OTHER:

A. CANCELLATION OF ELECTION BY THE CITY:

In the event that the City, at some time after the effective date of this Agreement, resolves not to hold the election, then notice of such resolution shall be provided to the County Clerk immediately. The City shall promptly pay the County Clerk the full actual costs of the activities of the County Clerk, relating to the City's costs associated with the election, both before and after the County Clerk's receipt of such notice. The City shall publish notice, as defined in the Code, of such cancellation in at least two (2) newspapers of general circulation in Pueblo County. The County Clerk shall post notice of the cancellation in the Office of the County Clerk and the Contact Officer shall post notice of the cancellation on the official bulletin board located in the lobby of City Hall, #1 City Hall Place, Pueblo, CO 81003. The City shall not cancel the election after September 4, 2023. This section is not intended to affect nor apply to any initiated matter deemed cancelled pursuant to C.R.S. § 31-2-210(3.5).

B. This Agreement is for the November 2023 coordinated election only. In the event the City's Code or Charter provides for a run-off election, and a run-off election becomes necessary, the County Clerk will not conduct that election for the City.

C. This Agreement constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, representation, and understandings between them. All duties, services, labor expenses, and costs needed or required in connection with this election that are attributable to the City, other than those specified above or by amendment to this Agreement, shall be provided by, and be the sole responsibility of, the City. No variation or modification of this Agreement and no waiver of any of the Agreement's provisions or conditions will be binding unless made in writing and signed by duly authorized owners, principals, or officers of the City and Pueblo County. This Agreement shall be construed and enforced according to the laws of the State of Colorado.

This Agreement shall be binding upon and inure to the benefit of the parties to it and their respective legal representatives, successors, and assigns. Any delegation or assignment of this Agreement by either party without the prior written consent of the other party shall be void. The subject headings of the paragraphs of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of its provisions.

D. Except as set forth elsewhere in this paragraph, all notices to be given in this Agreement shall be made in writing and shall be sufficient if delivered personally

due to the need for timely transmission of information to the other party at the following addresses:

Pueblo County Clerk and Recorder
Attention: Candace Rivera
Pueblo County Election Division 201 West Eighth Street, 7th Floor
Pueblo, CO 81003
719-583-4622

and

City of Pueblo
Attention: Marisa Stoller, City Clerk
#1 City Hall Place
Pueblo, CO 81003
719-553-2669

E. CONFLICT OF AGREEMENT WITH LAW:

In the event that any provision of this Agreement conflicts with the Code or other statutory or regulatory law, this Agreement shall be modified to conform to such law. No subsequent resolution of the Board of County Commissioners or of the City shall impair the rights of the County Clerk or the City hereunder without the consent of the other party to this Agreement except as provided by Section V. herein.

F. TIME OF THE ESSENCE:

Time is of the essence of this Agreement. The statutory time requirements of the Code shall apply to the completion of the tasks required by this Agreement except as those time requirements are specifically modified in this Agreement as a result of the provisions in the City Charter.

G. GOOD FAITH:

The parties shall implement this Agreement in good faith including acting in good faith in all matters that require joint or coordinated action.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement effective the day and year first written above.

ATTEST:

PUEBLO COUNTY, COLORADO

By: _____
Clerk to the Board

By: _____
Chairman, Board of County Commissioners

Date: _____

ATTEST:

**CITY OF PUEBLO,
A MUNICIPAL CORPORATION**

By: _____
City Clerk

By: _____
Mayor

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

By: _____
City Attorney's Office

By: _____
Pueblo County Clerk and Recorder

Date: _____

Date: _____

By: _____
Pueblo County Attorney's Office

Date: _____



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Bob Jagger, Acting City Attorney

SUBJECT: 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 QUESTION ESTABLISHING AN ADDITIONAL ONE AND ONE-HALF PERCENT LODGER'S TAX RATE FOR PROVIDING ACCESSIBLE AND AFFORDABLE CHILDCARE PROGRAMS FOR WORKING FAMILIES IN THE CITY OF PUEBLO

SUMMARY:

Attached is a proposed Ordinance requested by Council Member Sarah Martinez referring a ballot question to the voters of the City of Pueblo at the November 7, 2023 general municipal election establishing an additional one and one-half percent (1.5%) lodger's tax rate dedicated to providing accessible and affordable childcare programs for working families in the City.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

According to the 2021 Colorado Health Access Survey, nearly one in five (17.8%) families in Pueblo County reported not being able to access child care when they needed it. The lack of accessible and affordable childcare in the City is significant and contributes to lower employment, lower incomes and increased dependence on public support.

The proposed ordinance would allow the voters to approve establishing an additional one and one-half percent (1.5%) lodger's tax rate dedicated to providing accessible and affordable childcare programs for working families in the City. This lodging tax increase will generate approximately \$625,000 annually, and the tax increase is limited to a period of five years from 2024 through 2028.

According to the June 26, 2023 Work Session presentation, it is estimated that every \$1 spent equals more than \$2.33 in economic benefits and that the tax increase will only result in a \$.21 cent increase per night on visitor's receipts.

The use of such funds will not only promote higher employment among parents of young children which will bolster family income and family health but also the City's economy.

An example of the potential use of such funds could be an agreement with Pueblo Community College supporting the Children First Child Care Resource and Referral program or other programs and services that Council may direct.

FINANCIAL IMPLICATIONS:

It is anticipated that the additional 1.5% lodger's tax will generate up to approximately \$625,000 in 2024 and each subsequent year, subject to fluctuation in lodger's tax revenue collected during those years.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Members of the public are the primary stakeholders affected by the proposed Ordinance. The issue of establishing an additional 1.5% lodger's tax has been discussed at the June 26, 2023 work session.

ALTERNATIVES:

This Ordinance must be adopted in order to refer the ballot measure to the voters.

RECOMMENDATION:

This is a tax policy matter to be submitted to the vote of the people.

ATTACHMENTS:

1. Proposed Sales and Use Tax Ordinance

ORDINANCE NO. 10519

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 QUESTION ESTABLISHING AN ADDITIONAL ONE AND ONE-HALF PERCENT LODGER'S TAX RATE FOR PROVIDING ACCESSIBLE AND AFFORDABLE CHILDCARE PROGRAMS FOR WORKING FAMILIES IN THE CITY OF PUEBLO

WHEREAS, the City of Pueblo, Colorado (the "City") presently imposes lodger's tax at the rate of four and three tenths percent (4.3%) pursuant to Chapter 9, Title XIV of the Pueblo Municipal Code; and

WHEREAS, the City Council of the City hereby finds and determines that establishing an additional one and one-half percent (1.5%) lodger's tax rate for providing accessible and affordable childcare programs for working families in the City will promote the public peace, health, safety and welfare; and

WHEREAS, the City Council has proposed an ordinance ("Ordinance No. 10500"), which is attached hereto and which if adopted by the voters of the City would establish an additional one and one-half percent (1.5%) lodger's tax rate; and

WHEREAS, the City desires to ask the electors of the City, pursuant to Article X, Section 20 of the Colorado Constitution, to approve Ordinance No. 10500 and thereby establish an additional one and one-half percent (1.5%) lodger's tax rate for the purposes stated above; NOW, THEREFORE,

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

SECTION 1.

The question of adopting Ordinance No. 10500 and thereby establishing an additional one and one-half percent (1.5%) lodger's tax rate dedicated to providing accessible and affordable childcare programs for working families in the City shall be submitted to a vote of the eligible electors of the City at the City's general election to be held on November 7, 2023. The ballot question (submission clause and title) therefore shall be as follows:

QUESTION NO. 2A – ONE AND ONE-HALF PERCENT LODGER'S TAX for providing accessible and affordable childcare programs for working families in the City

SHALL THE CITY OF PUEBLO'S TAXES BE INCREASED BY UP TO \$625,000 ANNUALLY (FIRST FULL FISCAL YEAR INCREASE) AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER, FOR FIVE YEARS FROM JANUARY 1, 2024 THROUGH DECEMBER 31, 2028, BY ADOPTING ORDINANCE NO. 10500 IMPOSING AN ADDITIONAL ONE AND ONE-HALF PERCENT LODGER'S TAX AND ESTABLISHING A SPECIAL FUND FOR THE DEPOSIT OF SUCH REVENUES TO BE SPENT ONLY FOR PROVIDING ACCESSIBLE AND AFFORDABLE CHILDCARE PROGRAMS FOR WORKING FAMILIES IN THE CITY AND, CONSISTENT WITH ORDINANCE NO. 9998 APPROVED AT THE 2021 MUNICIPAL GENERAL ELECTION OR AS OTHERWISE MAY BE REQUIRED, SHALL ALL

REVENUES DERIVED FROM SUCH TAX BE COLLECTED, RETAINED AND SPENT, NOTWITHSTANDING ANY LIMITATIONS PROVIDED BY LAW, AS A VOTER APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY PURSUANT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

FOR THE ORDINANCE _____
AGAINST THE ORDINANCE _____

SECTION 2.

The officers and staff of the City are authorized and directed to take all action necessary, appropriate or required to implement the provisions of this Ordinance.

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 July 24, 2023.

Final adoption of Ordinance by City Council on August 14, 2023.



President of City Council

Action by the Mayor:

☒ Approved on August 17, 2023.

☐ Disapproved on _____ based on the following objections:



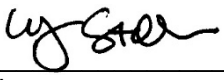
Mayor

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

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 9, TITLE XIV OF THE PUEBLO MUNICIPAL CODE TO ESTABLISH AN ADDITIONAL ONE AND ONE-HALF PERCENT (1.5%) LODGER'S TAX RATE FOR A FIVE YEAR PERIOD FROM JANUARY 1, 2024 THROUGH DECEMBER 31, 2028 AND ESTABLISHING A SPECIAL FUND FOR THE DEPOSIT OF SUCH REVENUES TO BE SPENT ONLY FOR PROVIDING ACCESSIBLE AND AFFORDABLE CHILDCARE PROGRAMS FOR WORKING FAMILIES IN THE CITY OF PUEBLO

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF PUEBLO, that (brackets indicate matter being deleted; underscoring indicates new matter being added):

SECTION 2.

Section 14-9-3 of Chapter 9, Title XIV of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 14-9-3. Levy of tax; **Special Fund**.

There is hereby levied upon every person who purchases lodging a tax at the rate of four and three-tenths percent (4.3%) of the price paid or charged for lodging and such person shall be liable to the person providing the lodging for the payment of such tax. This tax shall be in addition to any other tax imposed by law. **Notwithstanding the four and three-tenths percent (4.3%) rate imposed by this Section and during the period from January 1, 2024 through December 31, 2028, the lodger's tax shall be increased by one and one-half percent (1.5%) to the rate of six and eight-tenths percent (6.8%). The revenues from the additional one and on-half percent (1.5%), including interest and penalties with respect thereof, shall upon collection and receipt by the City be deposited and placed in a special fund hereby created to be known as the "Affordable Childcare Fund". The moneys in the Affordable Childcare Fund shall be used solely for providing accessible and affordable childcare programs for working families in the City.**

SECTION 3.

The people of Pueblo do hereby find, determine and declare that the expenditure of revenues from the additional one and on-half percent (1.5%) lodgers tax for providing accessible and affordable childcare programs for working families in the City will promote the public peace, health, safety and welfare. The people of Pueblo do further find, determine and declare that the expenditure of such revenues for providing accessible and affordable childcare programs for working families in the City is a public purpose and a municipal matter.

SECTION 4.

All ordinances relating to the lodger's tax heretofore adopted, amended or implemented shall remain in full force and effect except as the same have been previously amended or repealed or as the same may be amended by this Ordinance.

SECTION 5.

All ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance, or part thereof, heretofore repealed.

SECTION 6.

If any section, subsection, paragraph, clause or other provision of this Ordinance for any reason is invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 7.

This Ordinance shall become effective upon the majority vote in favor thereof by the registered electors of the City voting thereon at the General Municipal Election to be held Tuesday, November 7, 2023. The tax levies of this Ordinance shall take effect beginning January 1, 2024.

SECTION 8.

The officers and staff of the City are authorized and directed to take all action necessary, appropriate or required to implement the provisions of this Ordinance.

SECTION 9.

Any revenues generated by the additional one and one-half percent (1.5%) lodger's tax imposed pursuant to this Ordinance, together with all investment income thereon, may be collected, retained and spent as a voter-approved revenue change and an exception to the limits which would otherwise apply pursuant to Article X, Section 20 of the Colorado Constitution or any other law.

Municipal General Election, November 7, 2023

For the Ordinance: _____

Against the Ordinance: _____



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN EMERGENCY ORDINANCE TRANSFERRING \$100,000 FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND TO CI2205, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$100,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Emergency Ordinance transfers funds in the amount of \$100,000.00 from the unappropriated fund balance of the general fund to CI2205 - Fire 3 Stations - Arch/Design Project, and budgets and appropriates funds totaling \$100,000.00 for the Project.

PREVIOUS COUNCIL ACTION:

Ordinance 10110, dated February 14, 2022, established Fire Station 6, 8, and 11 Project, account Project No. CI2205, transferred \$600,000.00 from the unappropriated fund balance of the general fund, and budgeted and appropriated \$600,000.00.

Ordinance 10188, dated June 13, 2022, transferred \$609,245.00 from the unappropriated fund balance of the general fund, and budgeted and appropriated \$609,245.00.

Ordinance, 10202, dated June 27, 2022, transferred \$270,000.00 from the "2022" unappropriated fund balance of the general fund, and budgeted and appropriated \$270,000.00.

Resolution 14938, dated July 11, 2022, awarded an agreement for Professional Design Services to Allred and Associates for design and engineering services of new Fire Stations 6, 8, and 11.

Resolution 14921, dated June 27, 2022, awarded an agreement for Professional Services to Dunakilly Management Group Corp. for project representation, design

review support, and construction inspection services for new Fire Stations 6, 8, and 11.

BACKGROUND:

This project is part of infrastructure and response improvements for the City of Pueblo and its Fire Departments, relocating Fire Stations 1, 6, and 8, and building a new Fire Station 11. As part of the City of Pueblo's energy reduction goals, the new Fire Station buildings will be built to use as little energy as possible. In an effort to achieve Net Zero buildings, the Fire Stations are being designed to utilize alternative energy, reduce energy consumption and offset energy consumption with renewable energy.

Allred and Associates, were contracted by the City of Pueblo to provide design services for Fire Stations 6, 8, and 11. Through their design work, Allred and Associates has identified several upgrades for Net Zero, including Geothermal, Photovoltaic (solar panels), and energy reduction at the proposed Fire Stations 6, 8 and 11, as well as the future Fire Station 1. In order to design and engineer the Geothermal system for these four (4) fire stations, holes must be bored approximately 450 feet deep to test for thermal conductivity.

The Ordinance is determined to be an emergency due to the lack of geothermal bore testing companies in Colorado, and that a company out of Montana is available to do the testing immediately because they are in Brighton, Colorado for another project. The City of Pueblo has a contract with Allred and Associates, who will contract with the bore company; however, the cost associated with the testing is the responsibility of the City, through a future contract amendment with Allred and Associates. This Emergency Ordinance transfers \$100,000.00 in advance of the contract amendment.

FINANCIAL IMPLICATIONS:

The funds in the amount of \$100,000.00 are being transferred from the unappropriated fund balance of the general fund to CI2205.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

The alternative would be to remove geothermal renewable energy and seek alternative sources to reduce energy usage.

RECOMMENDATION:

Approve the Emergency Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10528

AN EMERGENCY ORDINANCE TRANSFERRING \$100,000 FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND TO CI2205, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$100,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, the Emergency Ordinance is necessary to transfer funds to complete geothermal thermal connectivity testing; NOW, THEREFORE,

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

SECTION 1.

Funds in the amount of \$100,000.00 are hereby transferred from the unappropriated fund balance of the general fund into account Project CI2205, Fire 3 Stations - Arch/Design Project, and budgeted and appropriated account Project CI2205.

SECTION 2.

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

SECTION 3.

Savings Clause. The immediate transfer of funds authorized by this Ordinance is necessary to complete the thermal connectivity test for geothermal while a geothermal bore testing company is available. Given these time restraints, the enactment of this Ordinance is necessary for the immediate preservation or protection of public health, property or safety. Pursuant to Sec. 3-20 of the City Charter, this Ordinance shall become effective upon final action by the Mayor and City Council

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on July 24, 2023.

Final adoption of Ordinance by City Council on August14, 2023.



President of City Council

Action by the Mayor:

☒ Approved on August 17, 2023.

☐ Disapproved on _____ based on the following objections:

Hilda Leal

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

Lydia

City Clerk



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: August 14, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Barb Huber, Fire Chief

SUBJECT: AN EMERGENCY ORDINANCE APPROVING AND ACCEPTING A RELEASE OF CLAIM AND INDEMNITY AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE BNSF RAILWAY CORPORATION, FOR A TRAINING EXERCISE THAT WILL OCCUR ON AUGUST 17, 2023

SUMMARY:

This Emergency Ordinance approves and accepts a Release of Claim and Indemnity Agreement with BNSF Railway Corporation ("BNSF Railway") so that the Fire Department can participate in a multi-jurisdictional, mass casualty training exercise on BNSF-owned property.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

The Fire Department is participating in the Pueblo County Mass Casualty Incident Exercise on August 17, 2023. This exercise is being conducted within the Burlington Northern and Santa Fe (BNSF) Railways property. The BNSF requires the waiver for participation in training on their property. The drill allows Pueblo County responders to exercise the Mass Casualty Plan in a realistic manner.

FINANCIAL IMPLICATIONS:

This agreement addresses potential liability issues that might arise as a result of Fire Department personnel participating in a multi-jurisdictional, mass casualty training exercise on BNSF Railroad owned property.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the Fire Department will not be able to participate in this important training event with other agencies.

RECOMMENDATION:

Approval of the Ordinance.

Not applicable to this Ordinance.

ATTACHMENTS:

1. Release of Claim and Indemnity Agreement -- City of Pueblo

ORDINANCE NO. 10529

AN EMERGENCY ORDINANCE APPROVING AND ACCEPTING
A RELEASE OF CLAIM AND INDEMNITY AGREEMENT
BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL
CORPORATION, AND THE BNSF RAILWAY CORPORATION,
FOR A TRAINING EXERCISE THAT WILL OCCUR ON AUGUST
17, 2023

WHEREAS, the Fire Department desires to participate in a large, mass casualty training exercise on August 17, 2023, because it is important training experience for department personnel; and

WHEREAS, participation in the event and acceptance of the Agreement is in the best interest of the City; NOW, THEREFORE,

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

SECTION 1.

The Release of Claim and Indemnity Agreement ("Agreement") with BNSF Railway, a true copy of which are attached hereto, having been approved as to form by the City Attorney, is hereby approved. The Mayor is authorized to execute the Agreement in the name of the City.

SECTION 2.

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 transactions described therein.

SECTION 3.

The city must accept the Agreement on or before August 17, 2023, in order for the Fire Department personnel to be able to participate in the training event. Given these time constraints, the enactment of this Ordinance is necessary for the immediate preservation or protection of public health, property or safety. Pursuant to Sec. 3-20 of the City Charter, this Ordinance shall become effective upon final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on July 24, 2023.

Final adoption of Ordinance by City Council on August 14, 2023.



President of City Council

Action by the Mayor:

☒ Approved on August 17, 2023.

☐ Disapproved on _____ based on the following objections:

Hilda Leal

Mayor

Action by City Council After Disapproval by the Mayor:

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

☐ Ordinance re-adopted on a vote of _____, on _____

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

President of City Council

ATTEST

Lydia

City Clerk



RELEASE OF CLAIM AND INDEMNITY AGREEMENT

The City of Pueblo, a Colorado Municipal Corporation (hereinafter called "Permittee") requests to go onto the premises of BNSF Railway Company (hereinafter called "Railroad") at Railroad's station of Pueblo Depot, with access to the premises limited to the area of Pueblo Depot – Pueblo Yard, during the period August 17, 2023-0800 to August 17, 2023 - 1400, for the purpose of County MCI Training. Permittee will not perform any testing or sampling on the premises.

Permittee fully realizes that its presence on Railroad's premises involves danger and risk to Permittee, including the possibility of Permittee's injury or death and damage to or loss of its property. Permittee also realizes that its presence may be a cause of damage to property of others or injury or death to other persons, including employees of Railroad.

THEREFORE, IN CONSIDERATION OF RAILROAD PERMITTING PERMITTEE TO ENTER ONTO ITS PREMISES FOR THE PURPOSES STATED ABOVE AND EXERCISES/ACTIVITIES INCIDENTAL THERETO, PERMITTEE HEREBY RELEASES, DISCHARGES, DEFENDS, SAVES HARMLESS AND INDEMNIFIES RAILROAD, ITS AGENTS AND EMPLOYEES FROM LIABILITY OR CLAIM FOR INJURY OR DEATH TO PERMITTEE, OR ANY OTHER PERSONS, AND FOR LOSS OF OR DAMAGE TO ANY PROPERTY WHICH OCCURS AS A RESULT OF PERMITTEE'S, OR PERMITTEE'S SERVANTS, PRESENCE ON THE PREMISES. THE LIABILITY ASSUMED BY PERMITTEE SHALL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DESTRUCTION, DAMAGE, DEATH, OR INJURY WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF RAILROAD, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE OF RAILROAD.

Permittee will not have more than 25 persons present on Railroad's premises; and will not interview, talk with or in any way disturb any of Railroad's employees. Any agent, invitee or contractor performing any work, or present on Railroad's premises with or on behalf of Permittee in connection with Permittee's use of the premises shall be conclusively deemed to be the servant of Permittee acting on behalf of the Permittee. Railroad shall have the right to terminate this agreement immediately, if Railroad finds that Permittee is working in an unsafe manner or performing unsafe acts.

Except with the express permission of Railroad, Permittee will not operate, lift, move or manipulate any of Railroad's equipment or other property.

Permittee (including any agent, invitee, or contractor performing any work or present on Railroad's premises with or on behalf of Permittee) shall not use or permit the use of any unmanned aerial aircraft in connection with Permittee's use of the premises without the express written permission of Railroad, which must be obtained prior to any such use.

To the maximum extent possible, each provision of this agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this agreement shall be prohibited by, or held to be invalid under applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision, or any other provision of this agreement.

THE ABOVE IS UNDERSTOOD AND ACCEPTED:

Date _____

Name _____

Address _____

Signed: _____

(Signature) (Permittee)

BNSF Railway Company

Date _____

Name _____

Address _____

Signed: _____

(Signature) (Railroad)