



**CITY COUNCIL EXECUTIVE COMMITTEE MEETING
CITY COUNCIL CHAMBERS, THIRD FLOOR, CITY HALL,
#1 CITY HALL PLACE, PUEBLO, COLORADO 81003.**

**TUESDAY, JANUARY 16, 2024
5:30 PM**

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

Executive Committee meetings are special meetings of the City Council and are informal Council meetings for the purpose of receiving information and discussion among Council Members; no official action is taken at such meetings. The public is invited to attend, but public comment is generally not received unless otherwise noted.

Agenda

CALL TO ORDER

PRESENTATIONS

- | | |
|--|-----------|
| A. CITY UPDATE | 5:30 p.m. |
| Laura Solano, Chief of Staff | |
| 5 minute presentation | |
| B. LOBBYIST UPDATE | 5:35 p.m. |
| Gil Romero - Capitol Success | |
| 30 minute presentation | |
| C. CIRSA - ETHICS, LIABILITY & BEST PRACTICES FOR ELECTED OFFICIALS | 6:05 p.m. |
| Sam Light - Deputy Executive Director / General Counsel | |
| 40 minute presentation | |
| D. MARIPOSA CENTER FOR SAFETY | 7:05 p.m. |
| Nicole Ferguson - Executive Director | |
| 15 minute presentation | |

ADJOURNMENT



Elected Official Presentation

City of Pueblo • January 16, 2024

Presented by: Sam Light, CIRSA Deputy Executive
Director/General Counsel

Introduction – Overview

• Suggestions for best practices that will enhance your effectiveness and success as elected officials and members of the City Council – which in turn will reduce risk for the City and you individually. Topics we will touch on include:

- The role of public official
- Organizational structure & liability
- Transparency – open meetings
- Ethics
- Due process requirements

• Presentation is a training resource only; is not intended to address or provide legal advice on any specific, pending issues.

One: Commit to the Role of Public Official

- Being a public official means your role has changed:
 - Citizen → government official (24/7!)
 - Outsider → insider
 - Critic/proponent → representative-ambassador-**fiduciary** of the City as an entity and of the Council as an institution.
- In the eyes of the community, you are always a public official!

The Role of Public Official

- As local government officials, part of your role is delivering good governance which, at root, is based both practically and legally on a few core concepts:
- **Openness & Transparency** (open meetings/records laws);
- **Fundamental Fairness** (due process);
- **Predictability & Evenhandedness** (equal protection, certiorari claims, etc.); and
- **Mutuality of Respect**

Two: Commit to Supporting the City Structure

- Another important risk management principle for everyone within the organization is to recognize and honor their role—it is important that everyone “stay in their lane” to avoid risks of liability, including the risk of personal liability!
 - You have protection from personal liability under Colorado Governmental Immunity Act (CGIA) if you are “within the scope of employment” and not acting “willfully and wantonly.”
 - Means everyone needs to know and respect their “job description.”
 - Conduct that is “outside the scope” or “willful and wanton” can result in a loss of governmental immunity and create liability, including the potential of personal liability for you.

Supporting the City Structure

- Can also result in potential loss of insurance coverage. Public official liability (POL) policies follow “course and scope” and “willful and wanton” concepts. That is, they extend coverage to elected officials “in their capacity as such” (or similar) and have provisions excluding coverage where liability is based on willful & wanton conduct, etc.
- The CGIA provides a form of qualified immunity, but it is not an absolute shield. Similarly, a federal form of qualified immunity protects government officials from liability for civil damages “insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.”
- Recognize that certain liability risks—e.g., civil rights claims and claims of tortious conduct—can be exacerbated by “bad facts” that suggest (or are perceived to be based upon) retaliatory or reactive conduct.

Supporting the City Structure

- What is the City structure? The Council “job description”?
- Pueblo operates as a home rule city, with a Mayor-Council form of government (Charter Sec. 1-2). Under this structure, there is an allocation of powers (policy/administration).
 - **Council:** Legislative body; “all legislative powers...” (*See* Charter Secs. 1-2, 3-5).
 - **Mayor:** Chief executive officer; “all executive and administrative powers...”; responsible for administrative service; official head of the City for ceremonial purposes (*See* Charter Secs. 1-2, 4-3).
- By charter, ordinance, etc., certain duties/powers are exercised by Council and certain duties/powers are exercised by Mayor, City Departments, and staff. These allocations of authority and responsibility not only define the organization’s structure; they define “scope of employment” for everyone in it.

Supporting the City Structure

Where Does the City Council Focus its Efforts?



The Role of the Legislative Body:

- Making laws, policy-setting, big picture, and forward-looking, rather than dealing with day-to-day operations, and rather than making reactive, case-by-case decisions as issues arise.
- Examples: General ordinances, adoption of city goals/objectives, annual budget, Council appointment-confirmation duties, decisions regarding corporate assets, contracts and corporate affairs reserved to Council.
- The legislative body:
 - Has long time horizon—looks down the road.
 - Has broad interests in mind.
 - Works together in its fiduciary role to protect the City as an entity and the Council as an institution.
 - General powers-see Charter Sec. 3.5.

Supporting the City Structure

- From a risk management perspective, role discipline is particularly important in the areas of employee relations and administrative matters assigned to staff.
- Except for any Council direct reports, Council members are not employee supervisors. Similarly, neither the Council nor its individual members have authority or responsibility for administrative matters that are assigned to staff. Thus,
 - Don't get individually and improperly involved in personnel issues or in administrative matters that have been assigned to Mayor and staff. (Remember your Charter, *Sec. 3-5(h)*, addressing relationship of Council to administrative service).
 - Such activities undermine your organizational structure, weaken the Council as an institution, impact morale, and can create risks for the City and for you individually.

Supporting the City Structure

- Tips to support the structure and avoid concerns around “role discipline” and “scope”:
 - Respect the delegations of authority already made via your charter, ordinances and organizational structure. Those allocations work to **serve** and **protect** the City and the Council and its members, if honored.
 - Keep in mind that membership on a multi-member legislative body is primarily a “We” job and your role is a group role. If you are thinking of acting individually, ask whether you have authority to act (and if you don’t, don’t do it).
 - Recognize elected officials act primarily as a group and exercise their responsibilities mainly by voting in a public meeting—where there are added legal protections!
 - Therefore, think “We” ... not “I”! If you find yourself about to act in terms of “I” rather than “we” ...that’s a red flag.

Supporting the City Structure

- Commit to personnel conduct that strengthens the WE - the Council as an institution. This sometimes requires personal sacrifices, such as:
 - Setting aside a personal interest or agenda when there is lack of support.
 - Accepting “the Council has spoken” though one preferred a different outcome.
 - Accepting when “Our work is done”; i.e., the hand-off from Council → staff.
 - Recognizing that individual efforts—e.g., liaison and representative roles—are in service of the entity and Council (the WE).
 - Avoiding perceptions (internal or external) of “getting ahead” of or “speaking for” the voice of Council where Council has not yet spoken.

Three: Commit to Transparency

- Honor the “openness” requirement of the Open Meetings Law (OML). Applies when 3 or more members of Council “meet” to discuss “public business”.
- The OML requires that such discussions occur at a meeting that is open to the public. And, if action will be taken or a quorum will be present, there must be timely notice—agenda posted at least 24 hours in advance.
- A “meeting” includes any gathering to discuss public business, in person, by phone, or electronically. See this CIRSA article: <https://www.cirsa.org/news/how-the-colorado-open-meetings-law-applies-to-elected-officials-email/>).
- In addition, in using executive sessions, make sure your systems are set up to comply with the OML and to protect City confidential information.

Four: Commit to Ethical Conduct

- Become familiar with the ethics rules governing your conduct (e.g., City Code, Chapter 9, Article 1, Charter Sec. 2-11, etc.). Make them your “best friend” in addressing ethics issues. Some key areas:
 - Conflicts of Interest: Disclose, recuse and don’t vote (Code Sec. 1-9-7(c)).
 - Don’t disclose confidential information or records, or use the same to further substantially personal financial interests. (Code Secs. 1-9-4(a)(1), 1-9-6).
 - Decline gifts that seem connected to your service and abide by gift rules (e.g., Code Sec. 1-9-4).
 - Avoid situations that may create an appearance of impropriety (Code Sec. 1-9-1). Recognize that in matters of ethics, fair or not, sometimes perception = reality and reality = perception.

Five: Commit to Providing Due Process

- Much of the time you're acting as "legislators"—making general policies that apply generally—or handling Council-level corporate matters.
- But sometimes you make decisions affecting a specific applicant's property rights. For these "quasi-judicial" matters—delineated at Code Sec. 1-7-3—you are essentially acting as judges. In this role you have heightened responsibilities to provide "due process" and a failure to provide due process exposes you and the City to liability.
- So, be familiar with the due process "rules of engagement" that apply to quasi-judicial matters.
- These rules have a familiar source: "No person shall be...deprived of life, liberty, or property, without due process of law."

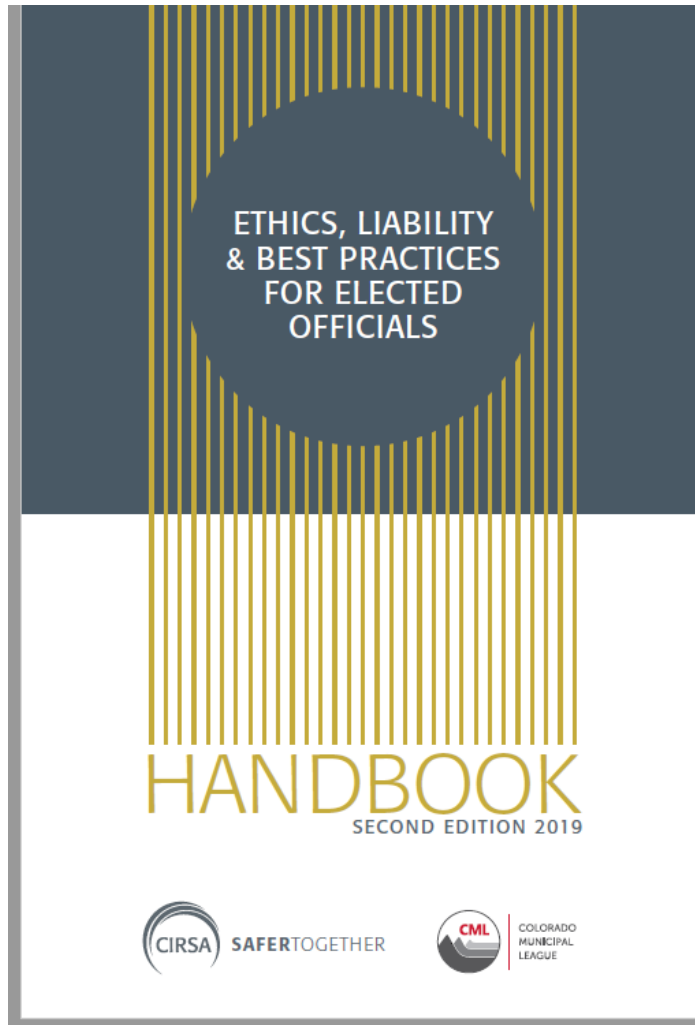
Due Process - Tips for Quasi-Judges

- Limit your involvement to just your participation at the public hearing. That is, irrespective of the level of citizen interest or staff activity, wait until the QJ matter is “ripe” and in front of Council.
- Remain neutral; don't make up your mind before the hearing and don't make prejudicial pre-hearing statements.
- Don't engage with one side or the other, or with your fellow quasi-judges, before or outside the hearing (ex parte contacts).
- **Deliberations Matter.** Make sure your deliberations and decision are focused and based on the relevant, existing criteria and not other factors. Use Sam's “Rule of Why.”
- For more on quasi-judicial “rules of engagement”, see these presentations:
<https://www.cirsa.org/wp-content/uploads/2020/05/Quasi-Judicial-Proceedings.mp4> and
https://www.cml.org/docs/default-source/uploadedfiles/events/annual-conference/cml-2022-conference---qj-decision-making.pdf?sfvrsn=b0a4e3a3_0.

Concluding Thoughts

- While there are many aspects of risk management that municipalities and their elected officials cannot fully control—e.g., public perceptions, the actions of claimants, the inclinations of judges, the enactments of federal and state legislatures, etc.—embracing wise leadership in the areas we can control will support your success and reduce your risks. Some examples:
 - Embracing your Council Rules and Core Values.
 - Dealing effectively with discord.
 - Committing always to civility & mutuality of respect and to avoiding and/or effectively addressing “high conflict.”
 - Touting the City’s successes—builds faith and trust that your government is getting good things done!
 - Committing to service of the City as an entity and the City Council as an institution, and embracing the fiduciary, stewardship, and “We” responsibilities of Council membership.

Resources



CIRSA Elected Officials Handbook:
<https://www.cirsa.org/wp-content/uploads/2019/06/EthicsLiabilityBestPracticesHandbookForElectedOfficials.pdf>

CIRSA elected and appointed officials' resources:
<https://www.cirsa.org/safety-training/elected-officials/>.

CIRSA news & events page:
<https://www.cirsa.org/news-and-events/news/>

CIRSA Training & Events Calendar:
<https://www.cirsa.org/news-and-events/events-calendar/>

CIRSA Safety YouTube Channel:
https://www.youtube.com/@CIRSA_Safety/videos

About the Colorado Intergovernmental Risk Sharing Agency (CIRSA)

- Public entity self-insurance pool for property, liability, and workers' compensation coverages.
- Formed by in 1982 by 18 municipalities pursuant to CML study committee recommendations.
- Not an insurance company, but an entity created by intergovernmental agreement of our members.
- Total membership today stands at over 285 member municipalities and affiliated legal entities
- Member-owned, member-governed organization.
- No profit motive – sole motive is to serve our members effectively and responsibly.
- CIRSA Board made up entirely of municipal officials.
- Seek to be continually responsive to the liability-related needs of our membership – coverages and associated risk management services, sample publications, training, and consultation services, as well as specialty services such as home rule charter review.
- We have the largest concentration of liability-related experience and knowledge directly applicable to Colorado municipalities.

Speaker Bio

Sam Light is Deputy Executive Director / General Counsel for the Colorado Intergovernmental Risk Sharing Agency (CIRSA). Previously, Mr. Light was a partner with the Denver law firm of Light | Kelly, P.C., specializing in municipal and other public entity law, insurance law and defense of public entities and elected officials. Sam is a frequent speaker on public entity risk issues and municipal law and has practiced in Colorado since 1993.



REQUEST FOR SUPPORT

City Council Work Session
January 2024

MARIPOSA CENTER FOR SAFETY

Mariposa Leadership Team

Dr. Nicole Ferguson, Executive Director

Ashley Swald, President

Pat Manzanares, Vice President

Jordan Everhart, Interim Secretary

Mandy Davis, Treasurer

Amy Rose, Board Member

Tina Salas, Board Member

Dr. Sarah Bryant, Board Member

Kat Young, Board Member

Reid Weber, Board Member

Dr. Justin Hiniker, Board Member

Molly Garcia, Board Member

FUNDING REQUEST

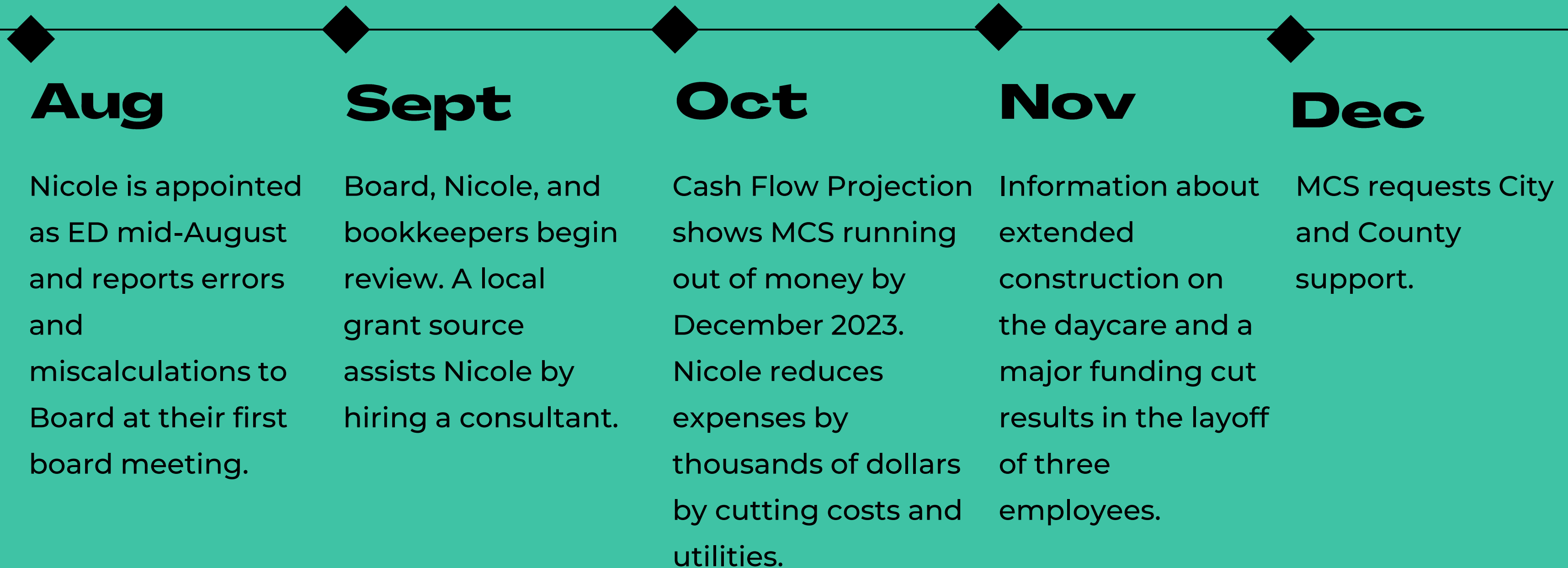
We are seeking \$495,000 in support to address a funding gap left by a decrease in funding. We are in need of a \$650,000 boiler/chiller repair to keep our historic building operational and we are in need of \$200,000 to support operations at our shelter, Teresa's Place, and outreach work in the Pueblo community.

COMMUNITY SERVED 2022-PRESENT

	Shelter	Teresa's Place	Training and Outreach
2022	496 Individuals Served 58 Children 4,797 Shelter Nights Provided 14,594 Meals Provided 215 Crisis Calls	217 Families Served (unduplicated) 918 Visits 444 Safe Exchanges <i>Funding cut in half for 2024 (VALE)</i>	Not Tracked
2023	322 Individuals Served 74 Children 5,247 Shelter Nights Provided 12,683 Meals Provided 245 Crisis Calls	126 Families Served (unduplicated) 1,079 Visits 556 Safe Exchanges	10 Community Awareness Events 22 Education Presentations 883 Participants/462 Youth 698 Volunteer Hours
2024	525 Individuals Served 60 Children 5,000 Shelter Nights Provided 15,300 Meals Provided 300 Crisis Calls	165 Families Served (unduplicated) 1,185 Visits 590 Safe Exchanges	12 Community Awareness Events 30 Education Presentations 1,000 Participants/462 Youth 750 Volunteer Hours

TIMELINE

HISTORICAL CONTEXT



CASH FLOW PROJECTION NOV. 2023

	Balances	12/31/2023	1/31/2024	2/29/2024	3/31/2024	4/30/2024	5/31/2024	6/30/2024
Investment - Account								
Main Checking	63,000							
Secondary Savings	40,000							
Total Bank Balances	103,000							
Total Available Cash Beginning of Month	103,000	103,000	62,520	(16,424)	(57,240)	(115,003)	(190,440)	(257,219)
Cash Inflow								
Account Receivables Remaining Open Balances				29,469				
Core Revenue (linked from "Cash Inflow-Sales")		114,915	91,256	91,256	100,272	91,256	91,256	91,256
Loan Proceeds								
Total Cash Inflow (Add Cash)	0	114,915	91,256	120,725	100,272	91,256	91,256	91,256
Cash Outflow								
Cash Outflow-FY23 Expenses		155,395	170,200	161,542	158,035	166,693	158,035	158,572
Total Cash Outflow	0	155,395	170,200	161,542	158,035	166,693	158,035	158,572
Net Cash (Outflow)/Inflow		(40,480)	(78,944)	(40,817)	(57,763)	(75,437)	(66,779)	(67,316)
Total Available Cash End of Month	103,000	62,520	(16,424)	(57,240)	(115,003)	(190,440)	(257,219)	(324,534)

CASH FLOW PROJECTION DEC. 2023

	<u>Balances</u>	<u>12/31/23</u>	<u>1/31/24</u>	<u>2/29/24</u>	<u>3/31/24</u>	<u>4/30/24</u>	<u>5/31/24</u>	<u>6/30/24</u>
Investment - Account	12,755					*New Funding End Date after Changes		
Main Checking	52,824							
Secondary Savings	43,000							
Total Bank Balances	95,824							
Total Available Cash Beginning of Month	108,579	108,579	149,183	86,818	31,298	(3,118)	(46,975)	(98,988)
Cash Inflow								
Account Receivables Remaining Open Balances		67049						
Core Revenue (linked from "Cash Inflow-Sales")		131,415	100,256	97,756	121,272	115,256	97,756	112,256
Loan Proceeds								
Total Cash Inflow (Add Cash)	0	198,465	100,256	97,756	121,272	115,256	97,756	112,256
Cash Outflow								
Cash Outflow-FY23 Expenses		157,861	162,621	153,276	155,688	159,114	149,769	156,225
Total Cash Outflow	0	157,861	162,621	153,276	155,688	159,114	149,769	156,225
Net Cash (Outflow)/Inflow		40,604	(62,365)	(55,520)	(34,416)	(43,858)	(52,013)	(43,969)
Total Available Cash End of Month	108,579	149,183	86,818	31,298	* (3,118)	(46,975)	(98,988)	*(142,957)

*Request need
to make it
through fiscal
year.

PROGRESS AND NEEDS

We continue to raise funds daily.

The Board and our Director of Development have worked diligently to identify other funding sources that may provide relief. Some have been added to the current calculations. We currently have a list of 50 additional funding sources we intend to contact.

We continue to evaluate our real estate and operations to maximize program effectiveness and costs.

We own our building and believe it may make the most sense to keep it but it needs repairs. This includes a \$650,000 boiler repair and our properties cost around \$70,000/month to operate.

STEPS WE ARE TAKING:

01

Current Real Estate

We are working with PEDCO and other community partners to determine if keeping this space is in our best interest.

03

Consolidate Space

We currently rent two other buildings and have a mortgage on a third. We are seeking ways to modify the space we have and consolidate our footprint.

02

Repair Planning

We have currently gone out to bid to determine if we can maintain the building through phased repairs as we can raise the funding.

04

Fundraising Efforts

Continued fundraising efforts to reach our goals and prevent a re-occurrence.

Our main funding priorities are:

1. Continue the existing community impact around the shelter, Teresa's Place, and outreach. An additional commitment of \$200,000 will go directly to supporting those programs.
2. To maximize the use of space in the highest and best way. For Mariposa, this means updating our historical structure and consolidating operations. Our biggest need is to update our infrastructure with a new boiler for approximately \$650,000.

*Thank
You*