



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

**MONDAY, JANUARY 8, 2024
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

Reverend Robert S Lewis Jr. , Fellowship of Bible

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

E. OATH OF OFFICE

- Mark Aliff, City Council Member At-Large
- Roger Gomez, City Council Member District 4
- Joe Latino, City Council Member District 2

F. ELECTION OF 2024 OFFICERS

- Election of President - Elected Council Member Assumes Presidency
- Election of Vice President
- President appoints Executive Committee Chairperson

G. SPECIAL RECOGNITIONS

G1 Recognition Presentation: "Dr. Martin Luther King, Jr. Unity March Day - January 15, 2024"
- Roxana Mack, NAACP Pueblo President

H. PUBLIC FORUM

I. COUNCIL MEMBER AND MAYOR COMMENTARY

J. REVIEW AND APPROVAL OF AGENDA

K. READING AND APPROVAL OF MINUTES

Motion to dispense with the reading and approve the Minutes of the Regular Meeting dated December 26, 2023, as distributed.

K1 City Council Minutes December 26, 2023

L. 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.

M. RESOLUTIONS

- M1 A Resolution designating public places for the posting of notice of meetings for the Pueblo City Council for the year 2024
- M2 A Resolution designating a public place for the posting of notice of meetings for all boards, commissions, and committees of the City of Pueblo for the year 2024
- M3 A Resolution fixing an alternate day for the Regular City Council Meeting currently scheduled for the fourth Monday in May 2024 and the second Monday in October 2024
- M4 A Resolution authorizing the Pueblo Urban Renewal Authority to conduct a study to determine whether the proposed North Elizabeth Area is a Slum, Blighted Area, or a combination thereof, and to notify owners of property in the areas subject of study.
- M5 A Resolution authorizing the Pueblo Urban Renewal Authority to conduct a study to determine whether the proposed Bluffs Area is a slum, blighted area, or combination thereof, and to notify owners of property in the area subject of study.

N. ORDINANCES – FIRST PRESENTATION

- N1 An Ordinance establishing Fund No. 304 - COP-Fire Stations and budgeting and appropriating the proceeds received from the issuance of the Series 2023 Certificates of Participation and all future funds received into Fund No. 304.
- N2 An Ordinance establishing Project PL2401 for Safe Routes to School Rock and Roll Safely, approving an Intergovernmental Agreement between the City of Pueblo, a Colorado Municipal Corporation, and the State of Colorado, acting by and through the Colorado Department of Transportation, Project: SAR M086-100 (25950), budgeting and appropriating funds in the amount of \$482,977 and authorizing the Mayor to execute same
- N3 An Ordinance approving and ratifying a Supplemental Environmental Project Agreement and approving a modification to said Agreement between the City of Pueblo, a Colorado Municipal Corporation, and the Colorado Department of Public Health and Environment for the purpose of developing a Household Hazardous Waste program; authorizing the Mayor to execute the modification; accepting funds in the amount of \$378,880.00 from the Colorado Department of Public Health and Environment; and budgeting and appropriating said funds into Project Account No. PL2302 - Household Hazardous Waste Program
- N4 An Ordinance amending zoning restrictions to rezone approximately 71.75 -acres if A-4, Agricultural Four to R-1, Single Family Residential (53.07-acres) and R-2 Single Family Residential (18.05-acres) located in the western portion of the Ventana Master Plan, 2002, and within the Proposed Ventana Estates Overall Development Plan area
- N5 An Ordinance amending section seven of chapter four of Title XVII of the Pueblo Municipal Code relating to Landscape Performance Standards
- N6 An Ordinance amending section 5 of Chapter 4, of Title XVII of the Pueblo Municipal Code relating to the appeal process for development and redevelopment review in the HB, HARP-1, HARP -2 and HARP-3 performance standard review

- N7 An Ordinance amending Chapter 10 to Title XI and Chapter 1 of Title XV of the Pueblo Municipal Code regulating commercial vehicle operations within the City
- N8 An Ordinance for safe use of public property to limit public camping and prohibit temporary structures on public property within the City of Pueblo, Colorado
- N9 An Ordinance making certain legislative findings and approving the Bluffs Phase 1 Urban Renewal Plan
- N10 An Ordinance making certain legislative findings and approving the North Elizabeth Hotel Urban Renewal Plan
- N11 An Ordinance approving and authorizing the City to sell and assign certain liens encumbering real property pursuant to Title VII, Chapter 9 of the Pueblo Municipal Code, and authorizing the Mayor to execute assignments of lien

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 January 22, 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 2024 general fund budget to Mt. Carmel Veterans Service Center in the amount of \$1,000 to sponsor the Salute to Heroes event on Thursday, January 18, 2024, at 4:00 pm at Pueblo Community College

R. ORDINANCES – FINAL PRESENTATION

- R1 An Ordinance changing the street name of US Highway 50 Bypass to Dr. Martin Luther King Jr. Bypass - *Introduced December 26, 2023 by Councilor Vicente Martinez Ortega*
- R2 An Ordinance establishing Project ED2305, the Pope Block Building Generator Roof Membrane Replacement Project, transferring \$30,000 from 41300000-56901, Projects to be Determined to ED2305, budgeting and appropriating funds in the amount of \$30,000, and authorizing the Mayor to execute same - *Introduced December 26, 2023 by Councilor Vicente Martinez Ortega*
- R3 An Ordinance establishing Project ED2307, the Pope Block Building Generator Fencing Project, transferring \$25,000 from 41300000-56901, Projects to be determined to ED2307, budgeting and appropriating funds in the amount of \$25,000, and authorizing the Mayor to execute same - *Introduced December 26, 2023 by Councilor Vicente Martinez Ortega*
- R4 An Ordinance establishing Project ED2306, the Pope Block Building Elevator Shaft Repair Project, transferring \$10,000 from 41300000-56901, projects to be determined to ED2306, budgeting and appropriating funds in the amount of \$10,000, and authorizing the Mayor to execute same - *Introduced December 26, 2023 by Councilor Vicente Martinez Ortega*
- R5 An Ordinance approving and accepting a subgrant in the amount of \$20,000.00 from the Pueblo County Department of Public Health and Environment on behalf of the Pueblo Food Project, budgeting and appropriating \$20,000.00 to Project No. 2333, and authorizing the Mayor's signature of the grant agreement - *Introduced December 26, 2023 by Councilor Vicente Martinez Ortega*
- R6 An Ordinance approving and accepting a subgrant in the amount of \$12,000 from the

Colorado Blueprint to End Hunger for the Pueblo Food Project, authorizing the Mayor to sign the grant agreement, and budgeting and appropriating \$12,000 to Project No. CI2332
- *Introduced December 26, 2023 by Councilor Vicente Martinez Ortega*

- R7 An Ordinance approving the grant agreement between the City of Pueblo and Caring For Colorado Foundation for the DOTS program and acceptance of \$15,000 for project PS2401 and authorizing the Mayor to execute the same - *Introduced December 26, 2023 by Councilor Vicente Martinez Ortega*
- R8 An Ordinance approving an intergovernmental agreement between the City of Pueblo, and Otero County relating to mutual aid in the provision of fire protection and other emergency services - *Introduced December 26, 2023 by Councilor Vicente Martinez Ortega*
- R9 An Ordinance approving an Agreement between the City of Pueblo, A Colorado Municipal Corporation, and the Housing Authority of the City of Pueblo, a Colorado non-profit Corporation allowing for the delay of the installation of landscape improvements for the Crawford Townhomes Phase 3 of Phase 2B as required by section 17-4-7 landscape performance standards of the Pueblo Municipal Code and authorizing the Mayor to execute same - *Introduced December 26, 2023 by Councilor Vicente Martinez Ortega*

S. ADJOURN



**REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS – CITY HALL
#1 CITY HALL PLACE
TUESDAY, DECEMBER 26, 2023 - 7:00 PM
MINUTES**

A. CALL TO ORDER

City Council President Heather Graham called the meeting to order at 7:00 pm.

B. INVOCATION

Councilor Dennis Flores conducted the invocation.

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

Council Members Present: Dennis Flores, Heather Graham, Regina Maestri, Vicente Martinez Ortega, Sarah Martinez.

Council Members Present via Zoom: Larry Atencio.

Council Members Absent: Lori Winner.

Administrative Staff Members Present: Mayor Nicholas Gradisar, Chief of Staff Laura Solano, City Attorney George Hypolite, Deputy City Clerk Vincent Petkosek.

E. SPECIAL RECOGNITIONS

No Special Recognitions.

F. PUBLIC FORUM

Sandra Sherrer - Conduct of City Council.
Christina Fransua - Gun Violence with Teens.
Elvis Martinez - End of year advice.

G. COUNCIL MEMBER AND MAYOR COMMENTARY

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

H. REVIEW OF AGENDA

I. APPROVAL OF AGENDA

Councilor Flores, seconded by Councilor Martinez Ortega, moved to continue N9 to January 8, 2024.

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

Councilor Martinez, seconded by Councilor Martinez Ortega, moved to continue N8 to January 8, 2024.

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

Councilor Martinez, seconded by Councilor Martinez Ortega, moved to approve the modified agenda.

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

J. READING AND APPROVAL OF MINUTES

J1 CITY COUNCIL MINUTES DECEMBER 11, 2023

Councilor Martinez, seconded by Councilor Martinez Ortega, moved to dispense with the reading and approve the Minutes of the Regular Meeting dated **December 11, 2023** as distributed.

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

K. CONSENT AGENDA

Deputy City Clerk Vincent Petkosek read the Consent Agenda for the record.

L. COMMUNICATIONS

L1 MINUTES OF THE PLANNING AND ZONING COMMISSION REGULAR MEETING FOR 11/08/2023

M. RESOLUTIONS

M1 A RESOLUTION TRANSFERRING FUNDS IN THE AMOUNT OF \$32,777.67 FROM CI2204, STREET REHABILITATION PROJECT TO CI2121, 18TH STREET EXTENSION PROJECT, AWARDED CONTRACT AMENDMENT NO. 1 IN THE AMOUNT OF \$32,777.67 TO K.R. SWERDFEGER CONSTRUCTION, LLC, A COLORADO LIMITED LIABILITY COMPANY, FOR PROJECT NO. 22-082, WEST 18TH STREET EXTENSION, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

This Resolution was assigned as 15450.

M2 A RESOLUTION AWARDED A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$23,867 TO A 5 CONSTRUCTION FOR PROJECT NO. 23-159, CONCRETE IMPROVEMENTS - UNIVERSITY PARK NEIGHBORHOOD, SETTING FORTH \$8,000 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

This Resolution was assigned as 15451.

- M3 A RESOLUTION TRANSFERRING FUNDS IN THE AMOUNT OF \$7,097.89 FROM THE "2023" PUBLIC WORKS OPERATING BUDGET FOR CONTRACT SERVICES, FOR PROJECT NO. 21-041 PUEBLO STREET ASSESSMENT PROJECT CONTRACT AMENDMENT NO. 3, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME.**

This Resolution was assigned as 15452.

- M4 A RESOLUTION APPROVING AND ACCEPTING THE CANVASS AND ABSTRACT OF VOTES CAST AT THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 7, 2023 AS PART OF A COORDINATED ELECTION WITH PUEBLO COUNTY**

This Resolution was assigned as 15453.

- M5 A RESOLUTION ADOPTING A FEE SCHEDULE FOR APPLICATIONS FOR MATTERS BROUGHT BEFORE THE LAND USE ADMINISTRATIVE OFFICIAL, HISTORIC PRESERVATION COMMISSION, PLANNING AND ZONING COMMISSION, SUBDIVISION REVIEW COMMITTEE, TECHNICAL ADVISORY COMMITTEE, AND ZONING BOARD OF APPEALS AND REPEALING RESOLUTION NUMBER 14808**

This Resolution was assigned as 15454.

- M6 A RESOLUTION RATIFYING THE REAPPOINTMENT OF STEPHANIE GARCIA TO THE PUEBLO CITY-COUNTY LIBRARY DISTRICT BOARD OF TRUSTEES**

This Resolution was assigned as 15455.

- M7 A RESOLUTION ESTABLISHING ACCOUNT PROJECT NO. CI2334, PORTABLE EV CHARGERS, TRANSFERRING A TOTAL OF \$338,625.14 FROM VARIOUS ACCOUNTS TO PROJECT NO. CI2334, PORTABLE EV CHARGERS**

This Resolution was assigned as 15456.

N. ORDINANCES – FIRST PRESENTATION

- N1 AN ORDINANCE ESTABLISHING PROJECT ED2305, THE POPE BLOCK BUILDING GENERATOR ROOF MEMBRANE REPLACEMENT PROJECT, TRANSFERRING \$30,000 FROM 41300000-56901, PROJECTS TO BE DETERMINED TO ED2305, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$30,000, AND AUTHORIZING THE MAYOR TO EXECUTE SAME**

- N2 AN ORDINANCE ESTABLISHING PROJECT ED2307, THE POPE BLOCK BUILDING GENERATOR FENCING PROJECT, TRANSFERRING \$25,000 FROM 41300000-56901, PROJECTS TO BE DETERMINED TO ED2307, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$25,000, AND AUTHORIZING THE MAYOR TO EXECUTE SAME**

- N3 AN ORDINANCE ESTABLISHING PROJECT ED2306, THE POPE BLOCK BUILDING ELEVATOR SHAFT REPAIR PROJECT, TRANSFERRING \$10,000 FROM 41300000-56901, PROJECTS TO BE DETERMINED TO ED2306, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$10,000, AND AUTHORIZING THE MAYOR TO EXECUTE SAME**
- N4 AN ORDINANCE APPROVING AND ACCEPTING A SUBGRANT IN THE AMOUNT OF \$20,000.00 FROM THE PUEBLO COUNTY DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT ON BEHALF OF THE PUEBLO FOOD PROJECT, BUDGETING AND APPROPRIATING \$20,000.00 TO PROJECT NO. 2333, AND AUTHORIZING THE MAYOR'S SIGNATURE OF THE GRANT AGREEMENT**
- N5 AN ORDINANCE APPROVING THE GRANT AGREEMENT BETWEEN THE CITY OF PUEBLO AND CARING FOR COLORADO FOUNDATION FOR THE DOTS PROGRAM AND ACCEPTANCE OF \$15,000 FOR PROJECT PS2401 AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME**
- N6 AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, AND OTERO COUNTY RELATING TO MUTUAL AID IN THE PROVISION OF FIRE PROTECTION AND OTHER EMERGENCY SERVICES**
- N7 AN ORDINANCE APPROVING AND ACCEPTING A SUBGRANT IN THE AMOUNT OF \$12,000 FROM THE COLORADO BLUEPRINT TO END HUNGER FOR THE PUEBLO FOOD PROJECT, AUTHORIZING THE MAYOR TO SIGN THE GRANT AGREEMENT, AND BUDGETING AND APPROPRIATING \$12,000 TO PROJECT NO. CI2332**
- N8 AN ORDINANCE AMENDING CHAPTER 10 TO TITLE XI AND CHAPTER 1 OF TITLE XV OF THE PUEBLO MUNICIPAL CODE REGULATING COMMERCIAL VEHICLE OPERATIONS WITHIN THE CITY**
- N9 AN ORDINANCE FOR SAFE USE OF PUBLIC PROPERTY TO LIMIT PUBLIC CAMPING AND PROHIBIT TEMPORARY STRUCTURES ON PUBLIC PROPERTY WITHIN THE CITY OF PUEBLO, COLORADO**
- N10 AN ORDINANCE CHANGING THE STREET NAME OF US HIGHWAY 50 BYPASS TO DR. MARTIN LUTHER KING JR. BYPASS**
- N11 AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF**

PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE HOUSING AUTHORITY OF THE CITY OF PUEBLO, A COLORADO NON-PROFIT CORPORATION ALLOWING FOR THE DELAY OF THE INSTALLATION OF LANDSCAPE IMPROVEMENTS FOR THE CRAWFORD TOWNHOMES PHASE 3 OF PHASE 2B AS REQUIRED BY SECTION 17-4-7 LANDSCAPE PERFORMANCE STANDARDS OF THE PUEBLO MUNICIPAL CODE AND AUTHORIZING THE MAYOR TO EXECUTE SAME

O. APPROVAL OF CONSENT AGENDA

Councilor Martinez Ortega, seconded by Councilor Martinez, moved to approve all Resolutions Set Forth in the Consent Agenda, Pass the Ordinances of the Consent Agenda, Setting the Public Hearings for January 8, 2024, 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. **Nays:** None. Motion Passed 6-0.

P. REGULAR AGENDA

Q. RESOLUTIONS

R. ORDINANCES – FINAL PRESENTATION

R1 AN ORDINANCE APPROPRIATING \$175,000 FROM THE GENERAL FUND RESERVE TO PROJECT CI2406 - JAN'24 MAYORAL RUNOFF ELECTION FOR MAYORAL RUNOFF ELECTION EXPENSES THAT OCCUR IN 2023.

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

PUBLIC HEARING:

Elvis Martinez spoke in Favor

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

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

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

This Ordinance was assigned as **10623.**

R2 AN ORDINANCE ESTABLISHING FUND NO. 236 - PLASTIC POLLUTION REDUCTION AND BUDGETING AND APPROPRIATING ALL FUNDS RECEIVED BY THE CITY OF PUEBLO UNDER THE PLASTIC POLLUTION REDUCTION ACT AND ALL FUTURE PAYMENTS RECEIVED FROM THE PLASTIC POLLUTION REDUCTION ACT IN FUND NO. 236.

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

This Ordinance was assigned as **10624.**

R3 AN ORDINANCE APPROVING AND AUTHORIZING THE FINANCE DEPARTMENT FOR TRANSFER OF FUNDS TO BE BUDGETED, APPROPRIATED FROM 3020-53003 IN THE AMOUNT OF \$10,000; 3020-56012 IN THE AMOUNT OF \$25,000; AND 3020-56920 IN THE AMOUNT OF \$15,000 TO BE MOVED INTO PROJECT CI2331 FOR THE PURCHASE OF EQUIPMENT

A staff report and detailed review of the Ordinance was given by Deputy Fire Chief Keith Novak.

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

This Ordinance was assigned as **10625.**

R4 AN ORDINANCE AMENDING SECTION 14-12-8 OF THE PUEBLO MUNICIPAL CODE RELATING TO RETAIL MARIJUANA EXCISE TAX RATE AND EFFECTIVE JANUARY 1, 2024 DECREASING SAID RATE OF TAX TO ZERO FOR A PERIOD OF THREE YEARS

A staff report and detailed review of the Ordinance was given by City Attorney George Hypolite.

PUBLIC HEARING:

Sal Pace - Spoke in Favor.
David Lemon - Spoke in Favor.

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, Councilor Martinez, Councilor Martinez Ortega. **Nays:** President Graham, Councilor Maestri. Motion Passed 4-2.

This Ordinance was assigned as 10622.

R5 AN ORDINANCE SUSPENDING THE PAYMENT OF THE MONTHLY STREET UTILITY REPAIR UTILITY SERVICE CHARGES FOR TWELVE CONSECUTIVE MONTHS BEGINNING WITH EACH UTILITY CUSTOMER'S JANUARY 2024 UTILITY BILL

A staff report and detailed review of the Ordinance was given by City Attorney George Hypolite.

PUBLIC HEARING:

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

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

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

This Ordinance was assigned as 10626.

R6 AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND SOUNDTHINKING, INC. (FORMERLY SHOTSPOTTER), A CALIFORNIA CORPORATION, TO PROVIDE SERVICES TO EMERGENCY RESPONDERS, MOST SPECIFICALLY PUEBLO POLICE DEPARTMENT, FOR GUNSHOT DETECTION, CRIME ANALYSIS AND DATA, AND RESOURCES REGARDING SAID DETECTION, AND AUTHORIZING MAYOR GRADISAR TO EXECUTE THE SAME

A staff report and detailed review of the Ordinance was given by Chief of Police Chris Noeller.

PUBLIC HEARING:

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

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

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

This Ordinance was assigned as 10627.

S. QUASI-JUDICIAL PROCEEDINGS

S1 AN ORDINANCE VACATING TWO SECTIONS OF TWO PUBLIC ACCESS, SIDEWALK, AND UTILITY EASEMENTS IN LOTS 1-3, BLOCK 3, PINION RIDGE COMMERCIAL SUBDIVISION

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 # V2301

dated April 12, 2023, be made part of the record for this hearing. So ordered by President Graham.

PUBLIC HEARING:

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

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

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

This Ordinance was assigned as **10628.**

S2 AN ORDINANCE VACATING THE DRAINAGE AND DETENTION EASEMENT IN LOT 1, BLOCK 2, SKYVIEW SUBDIVISION

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 # V2307 dated October 11, 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. **Nays:** None. Motion Passed 6-0.

This Ordinance was assigned as **10629.**

T. ADJOURN

City Council President Heather Graham adjourned the meeting at 8:25 pm.

Respectfully submitted,



Vincent Petkosek
Deputy City Clerk



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Marisa Stoller, City Clerk

SUBJECT: A RESOLUTION DESIGNATING PUBLIC PLACES FOR THE POSTING
OF NOTICE OF MEETINGS FOR THE PUEBLO CITY COUNCIL FOR
THE YEAR 2024

SUMMARY:

This Resolution designates the public places for the posting of notices of all meetings of the City Council at which the adoption of a proposed policy, position, resolution, rule, regulation or formal action occurs, or at which a majority or quorum of the body is in attendance or is expected to be in attendance.

PREVIOUS COUNCIL ACTION:

The public place for posting official notice for such public meetings is designated annually at the first regular meeting of each calendar year.

BACKGROUND:

Pursuant to 24-6-402(2)(c) C.R.S., any meetings at which the adoption of a proposed policy, position, resolution, rule, regulation or formal action occurs, or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice is given to the public. The public place for posting such notice shall be designated annually at the local public body's first regular meeting of each calendar year.

Traditionally City Hall has been the designated public place for the posting of notice of meetings, specifically the bulletin board on the first floor under the supervision of the City Clerk. In 2014, the City's Webpage was added as an additional designated public place for the posting of notice of meetings.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable for this Resolution.

STAKEHOLDER PROCESS:

Not Applicable for this Resolution.

ALTERNATIVES:

Designate a different location as the official bulletin board.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15457

A RESOLUTION DESIGNATING PUBLIC PLACES FOR THE
POSTING OF NOTICE OF MEETINGS FOR THE PUEBLO CITY
COUNCIL FOR THE YEAR 2024

WHEREAS, pursuant to Section 24-6-402(2)(c) C.R.S., any meetings at which the adoption of a proposed policy, position, resolution, rule, regulation or formal action occurs, or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice is given to the public; and

WHEREAS, the public places for posting such notices shall be designated annually at the local public body's first regular meeting of each calendar year; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The bulletin board located outside the Office of the City Clerk on the first floor of City Hall, #1 City Hall Place, Pueblo, Colorado, and the City of Pueblo's Webpage (www.pueblo.us), are hereby designated as the two public places for posting of notice of meetings for the Pueblo City Council. The posting shall include specific agenda information when possible.

SECTION 2.

The notice of meetings shall be posted no less than twenty-four hours prior to the holding of the meeting.

SECTION 3.

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.

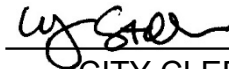
SECTION 4.

This Resolution shall become effective upon passage and approval.

INTRODUCED: January 8, 2024

BY: Heather Graham
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Marisa Stoller, City Clerk

SUBJECT: A RESOLUTION DESIGNATING A PUBLIC PLACE FOR THE POSTING
OF NOTICE OF MEETINGS FOR ALL BOARDS, COMMISSIONS, AND
COMMITTEES OF THE CITY OF PUEBLO FOR THE YEAR 2024

SUMMARY:

This Resolution designates the public place for the posting of notices of meetings for all Boards, Commissions, and Committees appointed by the City of Pueblo for the Year 2024.

PREVIOUS COUNCIL ACTION:

The public place for posting notices for such public meetings is designated annually at the first City Council meeting of each calendar year.

BACKGROUND:

Pursuant to 24-6-402(2)(c) C.R.S., any meetings at which the adoption of a proposed policy, position, resolution, rule, regulation or formal action occurs, or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice is given to the public.

Traditionally City Hall has been the designated public place for the posting of notices of meetings, specifically the bulletin board on the first floor of City Hall under the supervision of the City Clerk.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable for this Resolution.

STAKEHOLDER PROCESS:

Not Applicable for this Resolution.

ALTERNATIVES:

Designate a different location as the official bulletin board.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15458

A RESOLUTION DESIGNATING A PUBLIC PLACE FOR THE
POSTING OF NOTICE OF MEETINGS FOR ALL BOARDS,
COMMISSIONS, AND COMMITTEES OF THE CITY OF PUEBLO
FOR THE YEAR 2024

WHEREAS, pursuant to Section 24-6-402(2)(c), C.R.S., any meetings at which the adoption of a proposed policy, position, resolution, rule, regulation or formal action occurs, or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice is given to the public; and

WHEREAS, the public place for posting such notice shall be designated annually at the local public body's first regular meeting of each calendar year; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The bulletin board located outside the Office of the City Clerk on the first floor of City Hall, #1 City Hall Place, Pueblo, Colorado is hereby designated as the official bulletin board for the posting of meetings for all Boards, Commissions, and Committees of the City of Pueblo. The posting shall include specific agenda information when possible.

SECTION 2.

The notice of meetings shall be posted no less than twenty-four hours prior to the holding of the meeting.

SECTION 3.

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.

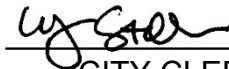
SECTION 4.

This Resolution shall become effective upon passage and approval.

INTRODUCED: January 8, 2024

BY: Heather Graham
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Marisa Stoller, City Clerk

SUBJECT: A RESOLUTION FIXING AN ALTERNATE DAY FOR THE REGULAR CITY COUNCIL MEETING CURRENTLY SCHEDULED FOR THE FOURTH MONDAY IN MAY 2024 AND THE SECOND MONDAY IN OCTOBER 2024

SUMMARY:

This Resolution changes the date of two 2024 Regular City Council meetings currently scheduled for the fourth Monday in May and the second Monday in October in order to accommodate the 2024 City Holiday Schedule.

PREVIOUS COUNCIL ACTION:

A Resolution changing the dates for any Regular City Council Meeting that falls on a City Holiday during the year is prepared for the first meeting in January of each year.

BACKGROUND:

Per Section 3-15 of the City Charter, *"If a regular meeting shall fall on or the evening before a City holiday, the City Council may by Resolution fix another day for such regular meeting."*

Monday, May 27, 2024 is observed as a City Holiday. The Regular Meeting scheduled for Monday, May 27, 2024 will be moved to Tuesday, May 28, 2024. Monday, October 14, 2024 is observed as a City Holiday. The Regular Meeting scheduled for Monday, October 14, 2024 will be moved to Tuesday, October 15, 2024.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable for this Resolution.

STAKEHOLDER PROCESS:

Not Applicable for this Resolution.

ALTERNATIVES:

If the aforementioned meetings are not rescheduled by Resolution, the Regular Meetings shall be held on the date of the recognized City holiday.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15459

A RESOLUTION FIXING AN ALTERNATE DAY FOR THE
REGULAR CITY COUNCIL MEETING CURRENTLY
SCHEDULED FOR THE FOURTH MONDAY IN MAY 2024 AND
THE SECOND MONDAY IN OCTOBER 2024

WHEREAS, the Regular City Council Meetings scheduled for the Fourth Monday in May falls on May 27, 2024, which is observed as a City Holiday, and the second Monday in October falls on October 14, 2024, which is observed as a City Holiday; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Tuesday, May 28, 2024 is hereby fixed as the day for the Regular Meeting of the Pueblo City Council, originally scheduled for *Monday, May 27, 2024*. *Tuesday, October 15, 2024* is hereby fixed as the day for the Regular Meeting of the Pueblo City Council, originally scheduled for *Monday, October 14, 2024*.

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: January 8, 2024

BY: Heather Graham
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Pueblo Urban Renewal Authority

SUBJECT: A RESOLUTION AUTHORIZING THE PUEBLO URBAN RENEWAL AUTHORITY TO CONDUCT A STUDY TO DETERMINE WHETHER THE PROPOSED NORTH ELIZABETH AREA IS A SLUM, BLIGHTED AREA, OR A COMBINATION THEREOF, AND TO NOTIFY OWNERS OF PROPERTY IN THE AREAS SUBJECT OF STUDY.

SUMMARY:

This resolution authorizes the Pueblo Urban Renewal Authority (PURA) to conduct a study to identify blighting factors within the proposed North Elizabeth Area in conjunction with the North Elizabeth Hotel development project.

PREVIOUS COUNCIL ACTION:

Not Applicable to this Resolution.

BACKGROUND:

The North Elizabeth area encompasses one (1) parcel and approximately 2.1 acres. The area is characterized by deteriorating structures, vacancy, underutilization, and possible environmental contamination. The site's historic uses included mobile homes, a gas station and a laundry mat. Currently, the site is vacant. A Conditions Survey will evaluate this area for statutorily defined "blighted area factors" (blighting factors). Colorado's Urban Renewal Law defines these factors under C.R.S. 31-25-103 (2) and in general, mean conditions that impair or arrest the sound growth of a municipality. The Conditions Survey will locate, identify, and describe each statutorily defined blighting factor found within the proposed plan area and help the City determine whether an Urban Renewal Area and Project would assist the City in alleviating blight and spurring redevelopment.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

The attached Resolution is the first necessary step to enlist the assistance of PURA in utilizing tax increment financing to revitalize the area. A “no action” alternative would prevent PURA's involvement and require a vote of the people for any tax increment financing.

RECOMMENDATION:

Approval of the Resolution

ATTACHMENTS:

1. Resolution (Proposed N. Elizabeth URA)

RESOLUTION NO.

A RESOLUTION AUTHORIZING THE PUEBLO URBAN RENEWAL AUTHORITY TO CONDUCT A STUDY TO DETERMINE WHETHER THE PROPOSED NORTH ELIZABETH AREA IS A SLUM, BLIGHTED AREA, OR A COMBINATION THEREOF, AND TO NOTIFY OWNERS OF PROPERTY IN THE AREAS SUBJECT OF STUDY.

WHEREAS, the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31 (the "Act") provides for urban renewal of blighted areas;

WHEREAS, the Pueblo Urban Renewal Authority wishes to conduct a Conditions Survey to assess blighting factors, and make recommendations, if appropriate, for the purposes of considering a redevelopment plan(s) to remove blighting conditions;

WHEREAS, the City Council of Pueblo ("Council") hereby authorized and directs the Pueblo Urban Renewal Authority to study an area of the City of Pueblo ("City") to assess if blighting factors exist in the area and, if appropriate, recommend that the City Council consider one or more redevelopment plans to remove any such conditions of blight; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The Pueblo Urban Renewal Authority ("Authority") is authorized to complete a study to determine if the proposed North Elizabeth areas are slum, blighted, or a combination thereof. Any actions taken by the Authority with respect to studying the proposed North Elizabeth area, prior to the date of passage of this resolution, are hereby ratified.

SECTION 2.

Within thirty (30) days of the authorization of the study described in Section 1, the Authority shall notify the owners of property in the area of such study pursuant to § 31-25-107 (1) (b) C.R.S.

SECTION 3.

Within thirty (30) days of authorizing the study described in Section 1, the Authority shall notify each public body that levies ad valorem property tax in the study area.

SECTION 4.

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

SECTION 5.

This resolution shall become effective immediately upon passage and approval.

INTRODUCED: January 8, 2024

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED:
PRESIDENT OF CITY COUNCIL

ATTESTED BY:
CITY CLERK

RESOLUTION NO. ____

A RESOLUTION AUTHORIZING THE PUEBLO URBAN RENEWAL AUTHORITY TO CONDUCT A STUDY TO DETERMINE WHETHER THE PROPOSED NORTH ELIZABETH AREA IS A SLUM, BLIGHTED AREA, OR A COMBINATION THEREOF, AND TO NOTIFY OWNERS OF PROPERTY IN THE AREA SUBJECT OF SUCH STUDY.

WHEREAS, the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31 (the "Act") provides for urban renewal of blighted areas;

WHEREAS, the Pueblo Urban Renewal Authority wishes to conduct a Conditions Survey to assess blighting factors, and make recommendations, if appropriate, for the purposes of considering a redevelopment plan(s) to remove blighting conditions;

WHEREAS, the City Council of Pueblo ("Council") hereby authorized and directs the Pueblo Urban Renewal Authority to study an area of the City of Pueblo ("City") to assess if blighting factors exist in the area and, if appropriate, recommend that the City Council consider one or more redevelopment plans to remove any such conditions of blight; and

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

SECTION 1.

The Pueblo Urban Renewal Authority ("Authority") is authorized to complete a study to determine if the proposed North Elizabeth areas are slum, blighted, or a combination thereof. Any actions taken by the Authority with respect to studying the proposed North Elizabeth area, prior to the date of passage of this resolution, are hereby ratified

SECTION 2.

Within thirty (30) days of the authorization of the study described in Section 1, the Authority shall notify the owners of property in the area of such study pursuant to § 31-25-107 (1) (b) C.R.S.

SECTION 3.

Within thirty (30) days of authorizing the study described in Section 1, the Authority shall notify each public body that levies ad valorem property tax in the study area.

SECTION 4.

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

SECTION 5.

This resolution shall become effective immediately upon passage and approval.

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

ATTESTED:

City Clerk



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Pueblo Urban Renewal Authority

SUBJECT: A RESOLUTION AUTHORIZING THE PUEBLO URBAN RENEWAL AUTHORITY TO CONDUCT A STUDY TO DETERMINE WHETHER THE PROPOSED BLUFFS AREA IS A SLUM, BLIGHTED AREA, OR COMBINATION THEREOF, AND TO NOTIFY OWNERS OF PROPERTY IN THE AREA SUBJECT OF STUDY.

SUMMARY:

This resolution authorizes the Pueblo Urban Renewal Authority (PURA) to conduct a study to identify blighting factors within the proposed Bluffs Area in conjunction with the Bluffs Phase 1 development project.

PREVIOUS COUNCIL ACTION:

Not Applicable to this Resolution.

BACKGROUND:

The Bluffs area encompasses five (5) parcels and approximately 3.3 acres, including Right-of-Way (ROW). The area is characterized by vacant land clustered atop a steep bluff within City limits, overlooking the Arkansas River. Public surface infrastructure, from streets and alleyways to the trails leading down to the River, is in disrepair. The survey area is also within "Superfund Proximity", according to the EPA's Environmental Justice Indexes website. A Conditions Survey will evaluate this area for statutorily defined "blighted area factors" (blighting factors). Colorado's Urban Renewal Law defines these factors under C.R.S. 31-25-103 (2) and in general, mean conditions that impair or arrest the sound growth of a municipality. The Conditions Survey will locate, identify, and describe each statutorily defined blighting factor found within the proposed plan area and help the City determine whether an Urban Renewal Area and Project would assist the City in alleviating blight and spurring redevelopment.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

The attached Resolution is the first necessary step to enlist the assistance of PURA in utilizing tax increment financing to revitalize the area. A “no action” alternative would prevent PURA's involvement and require a vote of the people for any tax increment financing.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15460

A RESOLUTION AUTHORIZING THE PUEBLO URBAN RENEWAL AUTHORITY TO CONDUCT A STUDY TO DETERMINE WHETHER THE PROPOSED BLUFFS AREA IS A SLUM, BLIGHTED AREA, OR COMBINATION THEREOF, AND TO NOTIFY OWNERS OF PROPERTY IN THE AREA SUBJECT OF STUDY.

WHEREAS, the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31 (the "Act") provides for urban renewal of blighted areas;

WHEREAS, the Pueblo Urban Renewal Authority wishes to conduct a Conditions Survey to assess blighting factors, and make recommendations, if appropriate, for the purposes of considering a redevelopment plan(s) to remove blighting conditions;

WHEREAS, the City Council of Pueblo ("Council") hereby authorized and directs the Pueblo Urban Renewal Authority to study an area of the City of Pueblo ("City") to assess if blighting factors exist in the area and, if appropriate, recommend that the City Council consider one or more redevelopment plans to remove any such conditions of blight; NOW, THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The Pueblo Urban Renewal Authority ("Authority") is authorized to complete a study to determine if the proposed Bluffs areas are slum, blighted, or a combination thereof. Any actions taken by the Authority with respect to studying the proposed Bluffs area, prior to the date of passage of this resolution, are hereby ratify

SECTION 2.

Within thirty (30) days of the authorization of the study described in Section 1, the Authority shall notify the owners of property in the area of such study pursuant to § 31-25-107 (1) (b) C.R.S.

SECTION 3.

Within thirty (30) days of authorizing the study described in Section 1, the Authority shall notify each public body that levies ad valorem property tax in the study area.

SECTION 4.

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

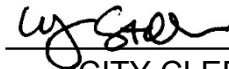
SECTION 5.

This resolution shall become effective immediately upon passage and approval.

INTRODUCED: January 8, 2024

BY: Heather Graham
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Alexandria Romero, Director of Finance

SUBJECT: AN ORDINANCE ESTABLISHING FUND NO. 304 - COP-FIRE STATIONS AND BUDGETING AND APPROPRIATING THE PROCEEDS RECEIVED FROM THE ISSUANCE OF THE SERIES 2023 CERTIFICATES OF PARTICIPATION AND ALL FUTURE FUNDS RECEIVED INTO FUND NO. 304.

SUMMARY:

This Ordinance establishes Fund No. 304 - COP-Fire Stations and budgets and appropriates funds in the amount of \$34,450,000 from the issuance of the Series 2023 Certificates of Participation and all future funds received into Fund No. 304.

PREVIOUS COUNCIL ACTION:

On October 23, 2023, by Ordinance No. 10570, City Council authorized a site lease and lease purchase agreement between the City, and BOKF, N.A. (solely in its capacity as trustee) for the purpose of financing the construction, improvement, and equipping of three fire stations by issuing Series 2023 Certificates of Participation to not exceed \$37,000,000.

BACKGROUND:

On December 21, 2023, the City closed and received the proceeds from the Series 2023 Certificates of Participation (COP). A separate account with ColoTrust, Fire Stations COP, was created for the transaction proceeds. This Ordinance will establish a debt service fund for the Series 2023 COPs.

FINANCIAL IMPLICATIONS:

The attached ordinance budgets and appropriates \$34,450,000 from the Series 2023 Certificates of Participation issuance into Fund No. 304.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Failure to adopt this Ordinance will result in the City Council not authorizing the establishment of Fund No. 304 and the budgeting and appropriation of funds received from the Series 2023 Certificates of Participation issuance.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE ESTABLISHING FUND NO. 304 - COP-FIRE STATIONS AND BUDGETING AND APPROPRIATING THE PROCEEDS RECEIVED FROM THE ISSUANCE OF THE SERIES 2023 CERTIFICATES OF PARTICIPATION AND ALL FUTURE FUNDS RECEIVED INTO FUND NO. 304.

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

SECTION 1.

Fund No. 304 is hereby established, and the \$34,450,000 received from the Series 2023 Certificates of Participation issuance by the City of Pueblo and all future funds received, are hereby budgeted and appropriated into said Fund No. 304.

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 _____.

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: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE ESTABLISHING PROJECT PL2401 FOR SAFE ROUTES TO SCHOOL ROCK AND ROLL SAFELY, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, PROJECT: SAR M086-100 (25950), BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$482,977 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance creates Project No. PL2401 for Safe Routes to School for Rock and Roll Safely, approves an Intergovernmental Agreement ("IGA") between Pueblo, a Colorado Municipal Corporation ("City") and the State of Colorado, Colorado Department of Transportation ("CDOT") relating to Rock and Roll Safely Safe Routes to School and budgets and appropriates funds totaling \$482,977 for the Project.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This Ordinance establishes the Safe Routes to School, PL2401 for Rock and Roll Safely and approves the grant agreement between the City and CDOT.

The City submitted a Safe Routes to Schools grant for improvements at Park View Elementary and Risley Middle Schools in 2022. This project provides safe and accessible routes to school by:

- 1) Pedestrian and bicycle crossing improvements, including installation of ADA curb ramps.

- 2) Street striping to define bike lanes and crosswalks.
- 3) Construction of a mid-block bump out in front of the elementary school.
- 4) Sidewalk improvements that include new sidewalks, widened sidewalks, and sidewalk gap closures.
- 5) Signage placement to slow traffic and provide awareness for bicyclists and pedestrians.
- 6) Installation of bicycle facilities, separated from the main roadway and with sharrow markings in selected segments.
- 7) Implementation of an in-school education component, which may include bike to school and workday, bike rodeos training, bike and pedestrian safety classes, active school travel safety classes, and parent engagement.

FINANCIAL IMPLICATIONS:

Match funds are not required.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Currently, there are no alternatives for completing the improvements without the funding from the CDOT Safe Routes to Schools Grant funds.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. Draft Agreement (25950)
2. GRANT CERTIFICATION SRTS

ORDINANCE NO.

AN ORDINANCE ESTABLISHING PROJECT PL2401 FOR SAFE ROUTES TO SCHOOL ROCK AND ROLL SAFELY, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, PROJECT: SAR M086-100 (25950), BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$482,977 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

SECTION 1.

The PL2401, Safe Routes to School Rock and Roll Safely, is hereby established.

SECTION 2.

The Intergovernmental Agreement ("IGA") between the City of Pueblo ("City"), a Colorado Municipal Corporation, and the State of Colorado, acting with and through the Colorado Department of Transportation ("CDOT"), Project: SAR M086-100 (25950), Safe Routes to School Rock and Roll Safely, a copy of which is attached, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

Subject to encumbrances by the Colorado State Department of Transportation, funds from the Safe Routes to School Rock and Roll Safely (25950) in the amount of \$482,977.00 are hereby budgeted and appropriated for the Safe Routes to School, No. PL2401 for Rock and Roll Safely.

SECTION 4.

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

SECTION 5.

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

SECTION 6.

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

Action by City Council:

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

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

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

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

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

President of City Council

ATTEST

City Clerk

STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT

Signature and Cover Page

State Agency Department of Transportation			Agreement Routing Number 24-HA2-XC-00221
Local Agency CITY OF PUEBLO			Agreement Effective Date The later of the effective date or September 25, 2023
Agreement Description Pueblo SRTS Rock and Roll Safety			Agreement Expiration Date September 24, 2033
Project # SAR M086- 100 (25950)	Region # 2	Contract Writer CM	Agreement Maximum Amount \$482,977.00

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

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

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

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1. PARTIES

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

2. TERM AND EFFECTIVE DATE

A. Effective Date

A. Effective Date

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

B. Initial Term and Extension

The Parties’ respective performances under this Agreement shall commence on the Agreement Effective Date shown on the Signature and Cover Page for this Agreement and shall terminate on September 24, 2033, as shown on the Signature and Cover Page for this Agreement, unless sooner terminated or further extended in accordance with the terms of this Agreement. Upon request of Local Agency, the State may, in its sole discretion, extend the term of this Agreement by Option Letter pursuant **§7.E.iv**. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in **Exhibit C**.

C. Early Termination in the Public Interest

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

i. Method and Content

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

ii. Obligations and Rights

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

iii. Payments

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

D. Local Agency Termination Under Federal Requirements

Local Agency may request termination of the ARPA Award by sending notice to the State, which includes the effective date of the termination. If this ARPA Award is terminated in this manner, then Local Agency

shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. **AUTHORITY**

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

A. Federal Authority

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

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

B. State Authority

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

4. **PURPOSE**

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

5. **DEFINITIONS**

The following terms shall be construed and interpreted as follows:

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

Information Services Security Policy, as amended and all Criminal Justice Records as defined under §24-72-302, C.R.S.

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

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

- JJ. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a).
- KK. **“State Fiscal Year”** means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- LL. **“State Purchasing Director”** means the position described in the Colorado Procurement Code and its implementing regulations.
- MM. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- NN. **“Sub-Award”** means this Award by the State to Local Agency funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to this Sub-Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- OO. **“Subcontractor”** means third parties, if any, engaged by Local Agency to aid in performance of the Work.
- PP. **“Subrecipient”** means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a Federal program but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency.
- QQ. **“Tax Information”** means Federal and State of Colorado tax information including, without limitation, Federal and State tax returns, return information, and such other tax-related information as may be protected by Federal and State law and regulation. Tax Information includes but is not limited to all information defined as Federal tax information in Internal Revenue Service Publication 1075.
- RR. **“Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.
- SS. **“USDT”** The United States Department of the Treasury (**USDT**) is the national treasury and finance department of the federal government of the United States where it serves as an executive department. The USDT funds ARPA.
- TT. **“Work”** means the delivery of the Goods and performance of the Services in compliance with CDOT’s Local Agency Manual described in this Agreement.
- UU. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

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

6. SCOPE OF WORK

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

Expiration Date and/or the phase performance periods will not amend or alter in any way the funding provisions or any other terms specified in this Agreement, notwithstanding the options listed under §7.E

A. Local Agency Commitments

i. Design

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

- a. Perform or provide the Plans to the extent required by the nature of the Work.
- b. Prepare final design in accordance with the requirements of the latest edition of the American Association of State Highway Transportation Officials (AASHTO) manual or other standard, such as the Uniform Building Code, as approved by the State.
- c. Prepare provisions and estimates in accordance with the most current version of the State’s Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction or Local Agency specifications if approved by the State.
- d. Include details of any required detours in the Plans in order to prevent any interference of the construction Work and to protect the traveling public.
- e. Stamp the Plans as produced by a Colorado registered professional engineer.
- f. Provide final assembly of Plans and all other necessary documents.
- g. Ensure the Plans are accurate and complete.
- h. Make no further changes in the Plans following the award of the construction contract to Contractor unless agreed to in writing by the Parties. The Plans shall be considered final when approved in writing by CDOT, and when final, they will be deemed incorporated herein.

ii. Local Agency Work

- a. Local Agency shall comply with the requirements of the Americans With Disabilities Act (ADA) 42 U.S.C. § 12101, et. seq., and applicable federal regulations and standards as contained in the document “ADA Accessibility Requirements in CDOT Transportation Projects”.
- b. Local Agency shall afford the State ample opportunity to review the Plans and shall make any changes in the Plans that are directed by the State to comply with FHWA requirements.
- c. Local Agency may enter into a contract with a Consultant to perform all or any portion of the Plans and/or construction administration. Provided, however, if federal-aid funds are involved in the cost of such Work to be done by such Consultant, such Consultant contract (and the performance provision of the Plans under the contract) must comply with all applicable requirements of 23 C.F.R. Part 172 and with any procedures implementing those requirements as provided by the State, including those in **Exhibit H**. If Local Agency enters into a contract with a Consultant for the Work:
 - 1) Local Agency shall submit a certification that procurement of any Consultant contract complies with the requirements of 23 C.F.R. 172.5(1) prior to entering into such Consultant contract, subject to the State’s approval. If not approved by the State, Local Agency shall not enter into such Consultant contract.
 - 2) Local Agency shall ensure that all changes in the Consultant contract have prior approval by the State and FHWA and that they are in writing. Immediately after the Consultant contract has been awarded, one copy of the executed Consultant contract and any amendments shall be submitted to the State.
 - 3) Local Agency shall require that all billings under the Consultant contract comply with the State’s standardized billing format. Examples of the billing formats are available from the CDOT Agreements Office.

- 4) Local Agency (and any Consultant) shall comply with 23 C.F.R. 172.5(b) and (d) and use the CDOT procedures described in **Exhibit H** to administer the Consultant contract.
- 5) Local Agency may expedite any CDOT approval of its procurement process and/or Consultant contract by submitting a letter to CDOT from Local Agency's attorney/authorized representative certifying compliance with **Exhibit H** and 23 C.F.R. 172.5(b) and (d).
- 6) Local Agency shall ensure that the Consultant contract complies with the requirements of 49 CFR 18.36(i) and contains the following language verbatim:
 - (a) The design work under this Agreement shall be compatible with the requirements of the contract between Local Agency and the State (which is incorporated herein by this reference) for the design/construction of the project. The State is an intended third-party beneficiary of this agreement for that purpose.
 - (b) Upon advertisement of the project work for construction, the consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project.
 - (c) The consultant shall review the construction Contractor's shop drawings for conformance with the contract documents and compliance with the provisions of the State's publication, Standard Specifications for Road and Bridge Construction, in connection with this work.
 - (d) The State, in its sole discretion, may review construction plans, special provisions and estimates and may require Local Agency to make such changes therein as the State determines necessary to comply with State and FHWA requirements.

iii. Construction

If the Work includes construction, Local Agency shall perform the construction in accordance with the approved design plans and/or administer the construction in accordance with **Exhibit E**. Such administration shall include Work inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving and securing the funding for contract modification orders and minor contract revisions; processing construction Contractor claims; construction supervision; and meeting the quality control requirements of the FHWA/CDOT Stewardship Agreement, as described in **Exhibit E**.

- a. The State may, after providing written notice of the reason for the suspension to Local Agency, suspend the Work, wholly or in part, due to the failure of Local Agency or its Contractor to correct conditions which are unsafe for workers or for such periods as the State may deem necessary due to unsuitable weather, or for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by the State to be in the public interest.
- b. Local Agency shall be responsible for the following:
 - 1) Appointing a qualified professional engineer, licensed in the State of Colorado, as Local Agency Project Engineer (LAPE), to perform engineering administration. The LAPE shall administer the Work in accordance with this Agreement, the requirements of the construction contract and applicable State procedures, as defined in the CDOT Local Agency Manual (https://www.codot.gov/business/designsupport/bulletins_manuals/2006-local-agency-manual).
 - 2) For the construction Services, advertising the call for bids, following its approval by the State, and awarding the construction contract(s) to the lowest responsible bidder(s).
 - (a) All Local Agency's advertising and bid awards pursuant to this Agreement shall comply with applicable requirements of 23 U.S.C. §112 and 23 C.F.R. Parts 633 and 635 and C.R.S. § 24-92-101 et seq. Those requirements include, without limitation, that Local Agency and its Contractor(s) incorporate Form 1273 (Exhibit I) in its entirety, verbatim,

into any subcontract(s) for Services as terms and conditions thereof, as required by 23 C.F.R. 633.102(e).

- (b) Local Agency may accept or reject the proposal of the apparent low bidder for Work on which competitive bids have been received. Local Agency must accept or reject such bids within three (3) working days after they are publicly opened.
- (c) If Local Agency accepts bids and makes awards that exceed the amount of available Agreement Funds, Local Agency shall provide the additional funds necessary to complete the Work or not award such bids.
- (d) The requirements of §6.A.iii.b.2 also apply to any advertising and bid awards made by the State.
- (e) The State (and in some cases FHWA) must approve in advance all Force Account Construction, and Local Agency shall not initiate any such Services until the State issues a written Notice to Proceed.

iv. Right of Way (ROW) and Acquisition/Relocation

- a. If Local Agency purchases a ROW for a State highway, including areas of influence, Local Agency shall convey the ROW to CDOT promptly upon the completion of the project/construction.
- b. Any acquisition/relocation activities shall comply with all applicable federal and State statutes and regulations, including but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, as amended (49 C.F.R. Part 24), CDOT's Right of Way Manual, and CDOT's Policy and Procedural Directives.
- c. The Parties' respective responsibilities for ensuring compliance with acquisition, relocation and incidentals depend on the level of federal participation as detailed in CDOT's Right of Way Manual (located at <http://www.codot.gov/business/manuals/right-of-way>); however, the State always retains oversight responsibilities.
- d. The Parties' respective responsibilities at each level of federal participation in CDOT's Right of Way Manual, and the State's reimbursement of Local Agency costs will be determined pursuant to the following categories:
 - 1) Right of way acquisition (3111) for federal participation and non-participation;
 - 2) Relocation activities, if applicable (3109);
 - 3) Right of way incidentals, if applicable (expenses incidental to acquisition/relocation of right of way – 3114).

v. Utilities

If necessary, Local Agency shall be responsible for obtaining the proper clearance or approval from any utility company that may become involved in the Work. Prior to the Work being advertised for bids, Local Agency shall certify in writing to the State that all such clearances have been obtained.

vi. Railroads

If the Work involves modification of a railroad company's facilities and such modification will be accomplished by the railroad company, Local Agency shall make timely application to the Public Utilities Commission ("PUC") requesting its order providing for the installation of the proposed improvements. Local Agency shall not proceed with that part of the Work before obtaining the PUC's order. Local Agency shall also establish contact with the railroad company involved for the purpose of complying with applicable provisions of 23 C.F.R. 646, subpart B, concerning federal-aid projects involving railroad facilities, and:

- a. Execute an agreement with the railroad company setting out what work is to be accomplished and the location(s) thereof, and which costs shall be eligible for federal participation.

- b. Obtain the railroad's detailed estimate of the cost of the Work.
- c. Establish future maintenance responsibilities for the proposed installation.
- d. Proscribe in the agreement the future use or dispositions of the proposed improvements in the event of abandonment or elimination of a grade crossing.
- e. Establish future repair and/or replacement responsibilities, as between the railroad company and the Local Agency, in the event of accidental destruction or damage to the installation.

vii. Environmental Obligations

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

viii. Maintenance Obligations

Local Agency shall maintain and operate the Work constructed under this Agreement at its own cost and expense during their useful life, in a manner satisfactory to the State and FHWA. Local Agency shall conduct such maintenance and operations in accordance with all applicable statutes, ordinances, and regulations pertaining to maintaining such improvements. The State and FHWA may make periodic inspections to verify that such improvements are being adequately maintained.

ix. Monitoring Obligations

Local Agency shall respond in a timely manner to and participate fully with the monitoring activities described in §7.F.vi.

B. State's Commitments

- i. The State will perform a final project inspection of the Work as a quality control/assurance activity. When all Work has been satisfactorily completed, the State will sign the FHWA Form 1212.
- ii. Notwithstanding any consents or approvals given by the State for the Plans, the State shall not be liable or responsible in any manner for the structural design, details or construction of any Work constituting major structures designed by, or that are the responsibility of, Local Agency, as identified in **Exhibit E**.

7. **PAYMENTS**

A. Maximum Amount

Payments to Local Agency are limited to the unpaid, obligated balance of the Agreement Funds set forth in **Exhibit C**. The State shall not pay Local Agency any amount under this Agreement that exceeds the Agreement Maximum set forth in **Exhibit C**.

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Local Agency in the amounts and in accordance with conditions set forth in **Exhibit C**.
- b. Local Agency shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Local Agency and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Local Agency shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.

- e. If a project is funded in part with Federal or State special funding there may be an expiration date for the funds. The expiration date applies to grants and local funds used to match grants. To receive payment or credit for the match, Work must be completed or substantially completed, as outlined in the terms of the grant, prior to the expiration date of the special funding and invoiced in compliance with the rules outlined in the award of the funding. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.

- ii. Interest

Amounts not paid by the State within 45 days after the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 46th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Local Agency shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of days interest to be paid and the interest rate.

- iii. Payment Disputes

If Local Agency disputes any calculation, determination, or amount of any payment, Local Agency shall notify the State in writing of its dispute within 30 days following the earlier to occur of Local Agency's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Local Agency and may make changes to its determination based on this review. The calculation, determination, or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

- iv. Available Funds-Contingency-Termination

- a. The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Local Agency beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Agreement Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Agreement Funds, the State's obligation to pay Local Agency shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Agreement Funds, and the State's liability for such payments shall be limited to the amount remaining of such Agreement Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in **§2.C**.
- b. If the agreement funds are terminated, the State can terminate the contract early. Payment due for work done to the date of termination will be processed in a manner consistent with **§2.C**.

- v. Erroneous Payments

The State may recover, at the State's discretion, payments made to Local Agency in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Local Agency. The State may recover such payments by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Local Agency, or by any other appropriate method for collecting debts owed to the State. The close out of a Federal Award does not affect the right of FHWA or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period (as defined below in **§9.A.**).

- vi. Federal Recovery

The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. Local Agency Funds

Local Agency shall provide their obligated contribution funds as outlined in **§7.A.** and **Exhibit C.** Local Agency shall have raised the full amount of their funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Local Agency's obligation to pay all or any part of any matching funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Local Agency and paid into Local Agency's treasury. Local Agency represents to the State that the amount designated "Local Agency Funds" in **Exhibit C** has been legally appropriated for the purpose of this Agreement by its authorized representatives and paid into its treasury. Local Agency may evidence such obligation by an appropriate ordinance/resolution or other authority letter expressly authorizing Local Agency to enter into this Agreement and to expend its match share of the Work. A copy of any such ordinance/resolution or authority letter is attached hereto as **Exhibit D** if applicable. Local Agency does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of Local Agency. Local Agency shall not pay or be liable for any claimed interest, late charges, fees, taxes, or penalties of any nature, except as required by Local Agency's laws or policies.

D. Reimbursement of Local Agency Costs

The State shall reimburse Local Agency's allowable costs, not exceeding the maximum total amount described in **Exhibit C** and **§7.** However, any costs incurred by Local Agency prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. The State shall pay Local Agency for costs or expenses incurred or performance by the Local Agency prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules, and regulations applicable to the Work provide for such retroactive payments to the Local Agency. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Agreement. The applicable principles described in 2 C.F.R. Part 200 shall govern the State's obligation to reimburse all costs incurred by Local Agency and submitted to the State for reimbursement hereunder, and Local Agency shall comply with all such principles. The State shall reimburse Local Agency for the federal-aid share of properly documented costs related to the Work after review and approval thereof, subject to the provisions of this Agreement and **Exhibit C.** Local Agency costs for Work performed prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. Local Agency costs for Work performed after any Performance Period End Date for a respective phase of the Work, is not reimbursable. Allowable costs shall be:

- i. Reasonable and necessary to accomplish the Work and for the Goods and Services provided.
- ii. Actual net cost to Local Agency (i.e. the price paid minus any items of value received by Local Agency that reduce the cost actually incurred).

E. Unilateral Modification of Agreement Funds Budget by State Option Letter

The State may, at its discretion, issue an "Option Letter" to Local Agency to add or modify Work phases in the Work schedule in **Exhibit C** if such modifications do not increase total budgeted Agreement Funds. Such Option Letters shall amend and update **Exhibit C**, Sections 2 or 4 of the Table, and sub-sections B and C of the **Exhibit C.** Option Letters shall not be deemed valid until signed by the State Controller or an authorized delegate. **This is NOT a Notice to Proceed.** Modification of **Exhibit C** by unilateral Option Letter is permitted only in the specific scenarios listed below. The State will exercise such options by providing Local Agency a fully executed Option Letter, in a form substantially equivalent to **Exhibit B.** Such Option Letters will be incorporated into this Agreement. This applies to the entire Scope of Work.

- i. Option to Begin a Phase and/or Increase or Decrease the Encumbrance Amount

The State may require by Option Letter that Local Agency begin a new Work phase that may include Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous Work (but may not include Right of Way Acquisition/Relocation or Railroads) as detailed in **Exhibit A.** Such Option

Letters may not modify the other terms and conditions stated in this Agreement and must decrease the amount budgeted and encumbered for one or more other Work phases so that the total amount of budgeted Agreement Funds remains the same. The State may also change the funding sources so long as the amount budgeted remains the same and the Local Agency contribution does not increase. The State may also issue a unilateral Option Letter to increase and/or decrease the total encumbrance amount of two or more existing Work phases, as long as the total amount of budgeted Agreement Funds remains the same, replacing the original Agreement Funding exhibit (**Exhibit C**) with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.).

ii. Option to Transfer Funds from One Phase to Another Phase.

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

iii. Option to Exercise Options i and ii.

The State may require Local Agency to add a Work phase as detailed in **Exhibit A**, and encumber and transfer Agreement Funds from one Work phase to another. The original funding exhibit (**Exhibit C**) in the original Agreement will be replaced with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.) attached to the Option Letter. The addition of a Work phase and encumbrance and transfer of Agreement Funds are subject to the same terms and conditions stated in the original Agreement with the total budgeted Agreement Funds remaining the same. The State may unilaterally exercise this option by providing a fully executed Option Letter to Local Agency within 30 days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iv. Option to Extend Agreement/Phase Term and/or modify the OMB Uniform Guidance. The State, at its discretion, shall have the option to extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. Any updated version of **Exhibit C** shall be attached to any executed Option Letter as **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.). In order to exercise this option, the State shall provide written notice to the Local Agency in a form substantially equivalent to **Exhibit B**.

F. Accounting

Local Agency shall establish and maintain accounting systems in accordance with generally accepted accounting standards (a separate set of accounts, or as a separate and integral part of its current accounting scheme). Such accounting systems shall, at a minimum, provide as follows:

i. Local Agency Performing the Work

If Local Agency is performing the Work, it shall document all allowable costs, including any approved Services contributed by Local Agency or subcontractors, using payrolls, time records, invoices, contracts, vouchers, and other applicable records.

ii. Local Agency-Checks or Draws

Checks issued or draws made by Local Agency shall be made or drawn against properly signed vouchers detailing the purpose thereof. Local Agency shall keep on file all checks, payrolls, invoices, contracts, vouchers, orders, and other accounting documents in the office of Local Agency, clearly identified, readily accessible, and to the extent feasible, separate and apart from all other Work documents.

iii. State-Administrative Services

The State may perform any necessary administrative support services required hereunder. Local Agency shall reimburse the State for the costs of any such services from the budgeted Agreement Funds as

provided for in **Exhibit C**. If FHWA Agreement Funds are or become unavailable, or if Local Agency terminates this Agreement prior to the Work being approved by the State or otherwise completed, then all actual incurred costs of such services and assistance provided by the State shall be reimbursed to the State by Local Agency at its sole expense.

iv. Local Agency-Invoices

Local Agency's invoices shall describe in detail the reimbursable costs incurred by Local Agency for which it seeks reimbursement, the dates such costs were incurred and the amounts thereof, and Local Agency shall not submit more than one invoice per month.

v. Invoicing Within 60 Days

The State shall not be liable to reimburse Local Agency for any costs invoiced more than 60 days after the date on which the costs were incurred, including costs included in Local Agency's final invoice. The State may withhold final payment to Local Agency at the State's sole discretion until completion of final audit. Any costs incurred by Local Agency that are not allowable under 2 C.F.R. Part 200 shall be Local Agency's responsibility, and the State will deduct such disallowed costs from any payments due to Local Agency. The State will not reimburse costs for Work performed after the Performance Period End Date for a respective Work phase. The State will not reimburse costs for Work performed prior to Performance Period End Date, but for which an invoice is received more than 60 days after the Performance Period End Date.

vi. Risk Assessment & Monitoring

Pursuant to 2 C.F.R. 200.331(b), – CDOT will evaluate Local Agency's risk of noncompliance with federal statutes, regulations, and terms and conditions of this Agreement. Local Agency shall complete a Risk Assessment Form (**Exhibit L**) when that may be requested by CDOT. The risk assessment is a quantitative and/or qualitative determination of the potential for Local Agency's non-compliance with the requirements of the Federal Award. The risk assessment will evaluate some or all of the following factors:

- Experience: Factors associated with the experience and history of the Subrecipient with the same or similar Federal Awards or grants.
- Monitoring/Audit: Factors associated with the results of the Subrecipient's previous audits or monitoring visits, including those performed by the Federal Awarding Agency, when the Subrecipient also receives direct federal funding. Include audit results if Subrecipient receives single audit, where the specific award being assessed was selected as a major program.
- Operation: Factors associated with the significant aspects of the Subrecipient's operations, in which failure could impact the Subrecipient's ability to perform and account for the contracted goods or services.
- Financial: Factors associated with the Subrecipient's financial stability and ability to comply with financial requirements of the Federal Award.
- Internal Controls: Factors associated with safeguarding assets and resources, deterring and detecting errors, fraud and theft, ensuring accuracy and completeness of accounting data, producing reliable and timely financial and management information, and ensuring adherence to its policies and plans.
- Impact: Factors associated with the potential impact of a Subrecipient's non-compliance to the overall success of the program objectives.
- Program Management: Factors associated with processes to manage critical personnel, approved written procedures, and knowledge of rules and regulations regarding federal-aid projects.

Following Local Agency's completion of the Risk Assessment Tool (**Exhibit L**), CDOT will determine the level of monitoring it will apply to Local Agency's performance of the Work. This risk assessment may be re-evaluated after CDOT begins performing monitoring activities.

G. Close Out

Local Agency shall close out this Award within 90 days after the Final Phase Performance End Date. If SLFRF Funds are used the Local Agency shall close out that portion of the Award within 45 days after the ARPA Award Expiration Date. Close out requires Local Agency's submission to the State of all deliverables defined in this Agreement, and Local Agency's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. If FHWA or US Treasury has not closed this Federal Award within one (1) year and 90 days after the Final Phase Performance End Date due to Local Agency's failure to submit required documentation, then Local Agency may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

8. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to §19 or pursuant to any exhibit, for any contract having a term longer than 3 months, Local Agency shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than ten (10) Business Days following the end of each calendar quarter or at such time as otherwise specified by the State. If SLFRF Funds are used the report must be in the format of **Exhibit P**.

B. Litigation Reporting

If Local Agency is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Local Agency's ability to perform its obligations under this Agreement, Local Agency shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in §16.

C. Performance and Final Status

Local Agency shall submit all financial, performance and other reports to the State no later than 60 calendar days after the Final Phase Performance End Date or sooner termination of this Agreement, containing an Evaluation of Subrecipient's performance and the final status of Subrecipient's obligations hereunder.

D. Violations Reporting

Local Agency must disclose, in a timely manner, in writing to the State and FHWA, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. Penalties for noncompliance may include suspension or debarment (2 CFR Part 180 and 31 U.S.C. 3321).

9. LOCAL AGENCY RECORDS

A. Maintenance

Local Agency shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Local Agency shall maintain such records for a period (the "Record Retention Period") pursuant to the requirements of the funding source and for a minimum of three (3) years following the date of submission to the State of the final expenditure report, whichever is longer, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Local Agency in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three (3) years following final disposition of such property.

B. Inspection

Records during the Record Retention Period. Local Agency shall make Local Agency Records available during normal business hours at Local Agency's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two (2) Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State will monitor Local Agency's performance of its obligations under this Agreement using procedures as determined by the State. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work. Local Agency shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Local Agency. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work. If Local Agency enters into a subcontract with an entity that would also be considered a Subrecipient, then the subcontract entered into by Local Agency shall contain provisions permitting both Local Agency and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

D. Final Audit Report

Local Agency shall promptly submit to the State a copy of any final audit report of an audit performed on Local Agency's records that relates to or affects this Agreement or the Work, whether the audit is conducted by Local Agency or a third party. Additionally, if Local Agency is required to perform a single audit under 2 CFR 200.501, *et seq.*, then Local Agency shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Local Agency shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Local Agency for the sole and exclusive benefit of the State, unless those State Records are otherwise publicly available at the time of disclosure or are subject to disclosure by Local Agency under CORA. Local Agency shall not, without prior written approval of the State, use for Local Agency's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Agreement. Local Agency shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Local Agency shall immediately forward any request or demand for State Records to the State's principal representative. If Local Agency or any of its Subcontractors will or may receive the following types of data, Local Agency or its Subcontractors shall provide for the security of such data according to the following: **(i)** the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Award as an Exhibit, if applicable, **(ii)** the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, **(iii)** the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and **(iv)** the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Award, if applicable. Local Agency shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Local Agency may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement. Local Agency shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Agreement, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Local Agency shall provide copies of those signed nondisclosure agreements to the State upon request.

C. Use, Security, and Retention

Local Agency shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Local Agency shall provide the State with access, subject to Local Agency's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Local Agency shall return State Records provided to Local Agency or destroy such State Records and certify to the State that it has done so, as directed by the State. If Local Agency is prevented by law or regulation from returning or destroying State Confidential Information, Local Agency warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Local Agency becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Local Agency can establish that none of Local Agency or any of its agents, employees, assigns, or Subcontractors are the cause or source of the Incident, Local Agency shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Local Agency shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing, and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Safeguarding Personally Identifying Information "PII"

If Local Agency or any of its Subcontracts will or may receive PII under this agreement, Local Agency shall provide for the security for such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Local Agency shall be a "Third Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 et seq., C.R.S. In addition, as set forth in § 24-74-102, et. seq., C.R.S., Contractor, including, but not limited to, Contractor's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Contractor is given direct access to any State databases containing PII, Contractor shall execute, on behalf of itself and its employees, the certification attached hereto as **Exhibit S** on an annual basis Contractor's duty and obligation to certify as set forth in **Exhibit S** shall continue as long as Contractor has direct access to any State databases containing PII. If Contractor uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Contractor shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

11. **CONFLICTS OF INTEREST**

A. Actual Conflicts of Interest

Local Agency shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of Local Agency under this Agreement. Such a conflict of interest would arise when a Local Agency or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement. Officers, employees, and agents of Local Agency may neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts.

B. Apparent Conflicts of Interest

Local Agency acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Local Agency shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Local Agency's obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Local Agency is uncertain whether a conflict or the appearance of a conflict has arisen, Local Agency shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

12. **INSURANCE**

Local Agency shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies with an AM Best rating of A-VIII or better.

A. Local Agency Insurance

Local Agency is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA") and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA.

B. Subcontractor Requirements

Local Agency shall ensure that each Subcontractor that is a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA. Local Agency shall ensure that each Subcontractor that is not a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement all of the following insurance policies:

i. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Local Agency or Subcontractor employees acting within the course and scope of their employment.

ii. General Liability

Commercial general liability insurance written on an Insurance Services Office occurrence form, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- a. \$1,000,000 each occurrence;
- b. \$1,000,000 general aggregate;
- c. \$1,000,000 products and completed operations aggregate; and
- d. \$50,000 any 1 fire.

iii. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

iv. Protected Information (this insurance requirement only applies if the Subcontractor has or will have access to State Confidential Information)

Liability insurance covering all loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$2,000,000 general aggregate.

- v. Professional Liability Insurance (this insurance requirement only applies if the Subcontractor is providing professional services including but not limited to engineering, architectural, landscape architectural, professional surveying, industrial hygiene services, or any other commonly understood professional service)

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$1,000,000 general aggregate.

- vi. Crime Insurance

Crime insurance including employee dishonesty coverage with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$1,000,000 general aggregate.

- vii. Cyber/Network Security and Privacy Liability

Liability insurance covering all civil, regulatory and statutory damages, contractual damages, data breach management exposure, and any loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of breach, violation or infringement of right to privacy rights through improper use or disclosure of protected consumer data protection law, confidentiality or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$2,000,000 general aggregate.

C. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Local Agency and Subcontractors. In the event of cancellation of any commercial general liability policy, the carrier shall provide at least 10 days prior written notice to CDOT.

D. Primacy of Coverage

Coverage required of Local Agency and each Subcontractor shall be primary over any insurance or self-insurance program carried by Local Agency or the State.

E. Cancellation

All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Local Agency and Local Agency shall forward such notice to the State in accordance with §16 within 7 days of Local Agency's receipt of such notice.

F. Subrogation Waiver

All commercial insurance policies secured or maintained by Local Agency or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Local Agency or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

G. Certificates

For each commercial insurance plan provided by Local Agency under this Agreement, Local Agency shall provide to the State certificates evidencing Local Agency's insurance coverage required in this Agreement within seven (7) Business Days following the Effective Date. Local Agency shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following the Effective Date, except that, if Local Agency's subcontract is not in effect as of

the Effective Date, Local Agency shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following Local Agency's execution of the subcontract. No later than 15 days before the expiration date of Local Agency's or any Subcontractor's coverage, Local Agency shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Local Agency shall, within seven (7) Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this §12.

13. BREACH

A. Defined

The failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner, shall be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization, or similar law, by or against Local Agency, or the appointment of a receiver or similar officer for Local Agency or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §14 for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in the Agreement in order to protect the public interest of the State.

14. REMEDIES

A. State's Remedies

If Local Agency is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in §13.B, shall have all of the remedies listed in this §14.A, in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of Local Agency's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Local Agency shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Local Agency shall not incur further obligations or render further performance past the effective date of such notice and shall terminate outstanding orders and subcontracts with third parties. However, Local Agency shall complete and deliver to the State all Work not canceled by the termination notice and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Local Agency shall assign to the State all of Local Agency's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Local Agency shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Local Agency but in which the State has an interest. At the State's request, Local Agency shall return materials owned by the State in Local Agency's possession at the time of any termination. Local Agency shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Local Agency for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Local Agency was not in breach or that Local Agency's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under §2.C.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Local Agency shall remain liable to the State for any damages sustained by the State in connection with any breach by Local Agency, and the State may withhold payment to Local Agency for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Local Agency is determined. The State may withhold any amount that may be due Local Agency as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Local Agency's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Local Agency to an adjustment in price or cost or an adjustment in the performance schedule. Local Agency shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Local Agency after the suspension of performance.

b. Withhold Payment

Withhold payment to Local Agency until Local Agency corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Local Agency's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal from the Work of any of Local Agency's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes a patent, copyright, trademark, trade secret, or other intellectual property right, Local Agency shall, as approved by the State (a) secure that right to use such Work for the State or Local Agency; (b) replace the Work with non infringing Work or modify the Work so that it becomes non infringing; or, (c) remove any infringing Work and refund the amount paid for such Work to the State.

B. Local Agency's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Local Agency, following the notice and cure period in §13.B and the dispute resolution process in §15 shall have all remedies available at law and equity.

15. **DISPUTE RESOLUTION**

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Local Agency for resolution.

B. Resolution of Controversies

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of CDOT as described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the “Resolution Statutes”), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor’s challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

C. Questions of Fact

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

16. NOTICES AND REPRESENTATIVES

Each individual identified below shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) by hand with receipt required, (ii) by certified or registered mail to such Party’s principal representative at the address set forth below or (iii) as an email with read receipt requested to the principal representative at the email address, if any, set forth below. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party’s principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §16 without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

For the State

Colorado Department of Transportation (CDOT)
Don Scanga, Local Agency Coordinator
CDOT, Region 2
5615 Wills Blvd.
Pueblo, CO 81008
719-621-8340
donald.scanga@state.co.us

For the Local Agency

City of Pueblo
Kelly Grisham, Senior Planner
211 East D Street
Pueblo, CO 81003
719-553-2643
kgrisham@pueblo.us

17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Local Agency hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Local Agency or any Subcontractors. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product. Whether or not Local Agency is under contract with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire.

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Local Agency hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that Local Agency cannot make any of the assignments required by this section, Local Agency hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents

In addition, Local Agency grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Local Agency that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

iii. Assignments and Assistance

Whether or not the Local Agency is under Agreement with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives, or other documents, drawings, models, materials, data, and information shall be the exclusive property of the State (collectively, "State Materials"). Local Agency shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Local Agency's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Local Agency shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Local Agency

Local Agency retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Local Agency including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Local Agency under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Local Agency Property"). Local Agency Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

18. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S. The following applies through June 30, 2022: no term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Local Agency under this Agreement is \$100,000 or greater, either on the Effective Date or at any time thereafter, this §19 shall apply. Local Agency agrees to be governed by and comply with the provisions of §24-106-103, §24-102-206, §24-106-106, §24-106-107 C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State's contract management system ("Contract Management System" or "CMS"). Local Agency's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

20. GENERAL PROVISIONS

A. Assignment

Local Agency's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Local Agency's rights and obligations approved by the State shall be subject to the provisions of this Agreement

B. Subcontracts

Local Agency shall not enter into any subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Local Agency shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Local Agency in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement.

C. Binding Effect

Except as otherwise provided in §20.A. all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

H. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

I. Jurisdiction and Venue

All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

J. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than contract amendments, shall conform to the policies promulgated by the Colorado State Controller.

K. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

L. Order of Precedence

In the event of a conflict or inconsistency between this Agreement and any exhibits or attachment such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- i. The provisions of the other sections of the main body of this Agreement.
- ii. **Exhibit N**, Federal Treasury Provisions.
- iii. **Exhibit F**, Certification for Federal-Aid Contracts.
- iv. **Exhibit G**, Disadvantaged Business Enterprise.
- v. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts.
- vi. **Exhibit J**, Additional Federal Requirements.
- vii. **Exhibit K**, Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions.
- viii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form.
- ix. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the "Uniform Guidance").
- x. **Exhibit O**, Agreement with Subrecipient of Federal Recovery Funds.
- xi. **Exhibit R**, Applicable Federal Awards.
- xii. Colorado Special Provisions in the main body of this Agreement.
- xiii. **Exhibit A**, Scope of Work.
- xiv. **Exhibit H**, Local Agency Procedures for Consultant Services.
- xv. **Exhibit B**, Sample Option Letter.
- xvi. **Exhibit C**, Funding Provisions.
- xvii. **Exhibit P**, SLFRF Subrecipient Quarterly Report.
- xviii. **Exhibit Q**, SLFRF Reporting Modification Form.
- xix. **Exhibit D**, Local Agency Resolution.

- xx. **Exhibit E**, Local Agency Contract Administration Checklist.
- xxi. **Exhibit S**, PII Certification.
- xxii. **Exhibit T**, Checklist of Required Exhibits Dependent on Funding Source.
- xxiii. Other exhibits in descending order of their attachment.

M. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of the Agreement.

N. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of the Agreement shall survive the termination or expiration of the Agreement and shall be enforceable by the other Party.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in **§20.C**, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

P. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107 C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

Local Agency shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in Local Agency's industry, trade, or profession.

S. Licenses, Permits, and Other Authorizations.

Local Agency shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

T. Compliance with State and Federal Law, Regulations, and Executive Orders

Local Agency shall comply with all State and Federal law, regulations, executive orders, State and Federal Awarding Agency policies, procedures, directives, and reporting requirements at all times during the term of this Agreement.

U. Accessibility

- i. Local Agency shall comply with and the Work Product provided under this Agreement shall be in compliance with all applicable provisions of §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability, as established by the Governor's Office of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Local Agency shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the

most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.

- ii. Each Party agrees to be responsible for its own liability incurred as a result of its participation in and performance under this Agreement. In the event any claim is litigated, each Party will be responsible for its own attorneys' fees, expenses of litigation, or other costs. No provision of this Agreement shall be deemed or construed to be a relinquishment or waiver of any kind of the applicable limitations of liability provided to either the Local Agency or the State by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq. and Article XI of the Colorado Constitution. Nothing in the Agreement shall be construed as a waiver of any provision of the State Fiscal Rules.
- iii. The State may require Local Agency's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Local Agency's Work Product and software is in compliance with §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

V. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.*, C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Local Agency. Local Agency shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Local Agency may wish to have in place in connection with this Agreement.

21. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts. Contractor refers to Local Agency.

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

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

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

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

C. GOVERNMENTAL IMMUNITY.

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

D. INDEPENDENT CONTRACTOR

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

proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.

E. COMPLIANCE WITH LAW.

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

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

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

G. PROHIBITED TERMS.

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

H. SOFTWARE PIRACY PROHIBITION.

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

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

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

22. FEDERAL REQUIREMENTS

Local Agency and/or their contractors, subcontractors, and consultants shall at all times during the execution of this Agreement strictly adhere to, and comply with, all applicable federal and State laws, and their implementing regulations, as they currently exist and may hereafter be amended. A summary of applicable federal provisions are attached hereto as **Exhibit F, Exhibit I, Exhibit J, Exhibit K, Exhibit M, Exhibit N and Exhibit O** are hereby incorporated by this reference.

23. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

Local Agency will comply with all requirements of **Exhibit G** and **Exhibit E**, Local Agency Contract Administration Checklist, regarding DBE requirements for the Work, except that if Local Agency desires to use its own DBE program to implement and administer the DBE provisions of 49 C.F.R. Part 26 under this Agreement, it must submit a copy of its program's requirements to the State for review and approval before the execution of this Agreement. If Local Agency uses any State- approved DBE program for this Agreement, Local Agency shall be solely responsible to defend that DBE program and its use of that program against all legal and other challenges or complaints, at its sole cost and expense. Such responsibility includes, without limitation, determinations concerning DBE eligibility requirements and certification, adequate legal and factual bases for DBE goals and good faith efforts. State approval (if provided) of Local Agency's DBE program does not waive or modify the sole responsibility of Local Agency for use of its program.

EXHIBIT A

SCOPE OF WORK

Name of Project: Pueblo SRTS Rock and Roll Safety
Project Number: SAR M086-100
SubAccount #: 25950

The local agency shall be responsible for design and construction of safe and accessible routes to Park View Elementary and Risley Middle Schools by providing the following improvements:

- 1) Pedestrian and bicycle crossing improvements including installation of ADA curb ramps.
- 2) Street striping to define bike lanes and crosswalks.
- 3) Construction of a mid-block bump out in front of the elementary school.
- 4) Sidewalk improvements that include new sidewalks, widened sidewalks, and sidewalk gap closures.
- 5) Signage placement to slow traffic and provide awareness for bicyclists and pedestrians.
- 6) Installation of bicycle facilities, separated from the main roadway and with sharrow markings in selected segments.
- 7) Implementation of an in-school education component, which may include bike to school and workday, bike rodeos training, bike and pedestrian safety classes, active school travel safety classes, and parent engagement.
- 8) Utility relocation, as necessary.
- 9) Right-of-Way acquisition, as necessary.

If ARPA funds are used, all ARPA funds must be encumbered by December 31, 2024. All work funded by ARPA must be completed by December 31, 2026 and all bills must be submitted to CDOT for payment by January 31, 2027. These bills must be paid by CDOT by March 31, 2027.

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

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EXHIBIT B

SAMPLE IGA OPTION LETTER

Date	State Fiscal Year	Option Letter No.
Project Code	Original Agreement #	

Vendor Name:

Option to unilaterally add phasing to include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous and to update encumbrance amount(s).

Option to unilaterally transfer funds from one phase to another phase.

Option to unilaterally add phasing to include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous, to update encumbrance amount(s), and to unilaterally transfer funds from one phase to another phase.

Option to unilaterally extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify OMB Guidance.

Option A

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to authorize the Local Agency to add a phase and to encumber funds for the phase based on changes in funding availability and authorization. The total encumbrance is (or increased) by \$0.00. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option B

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to transfer funds based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option C

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to 1) release the Local Agency to begin a phase; 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from phases based on variance in actual phase costs and

original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option D

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. This is made part of the original Agreement and replaces the Expiration Date shown on the Signature and Cover Page. Any updated version of **Exhibit C** shall be attached to any executed Option Letter as **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.).

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

STATE OF COLORADO
Jared S. Polis
Department of Transportation

By: _____
Keith Stefanik, P.E., Chief Engineer
(For) Shoshana M. Lew, Executive Director

Date: _____

ALL AGREEMENTS MUST BE APPROVED BY THE STATE CONTROLLER

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

STATE OF COLORADO
STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____
Colorado Department of Transportation

Date: _____

EXHIBIT C FUNDING PROVISIONS**City of Pueblo: SAR M086-100 (25950)****A. Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be \$482,977.00, which is to be funded as follows:

1. FUNDING		
a.	Federal Funds (100% of SAR Award)	\$482,977.00
b.	Local Agency Funds (0% of SAR Award)	\$0.00
TOTAL FUNDS ALL SOURCES		\$482,977.00
2. OMB UNIFORM GUIDANCE		
a.	Federal Award Identification Number (FAIN):	TBD
b.	Name of Federal Awarding Agency:	FHWA
c.	Local Agency Unique Entity Identifier	NJK3BNUDRHJ7
d.	Assistance Listing # Highway Planning and Construction	ALN 20.205
e.	Is the Award for R&D?	No
f.	Indirect Cost Rate (if applicable)	N/A
g.	Amount of Federal Funds Obligated by this Action:	\$0.00
h.	Amount of Federal Funds Obligated to Date (including this Action):	\$0.00
3. ESTIMATED PAYMENT TO LOCAL AGENCY		
a.	Federal Funds Budgeted	\$482,977.00
b.	Less Estimated Federal Share of CDOT-Incurred Costs	\$0.00
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY		100% \$482,977.00
TOTAL ESTIMATED FUNDING BY LOCAL AGENCY		0% \$0.00
TOTAL PROJECT ESTIMATED FUNDING		100.00% \$482,977.00
4. FOR CDOT ENCUMBRANCE PURPOSES		
a.	Total Encumbrance Amount (Federal funds + Local Agency funds)	\$482,977.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	\$0.00
NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS		\$482,977.00

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

WBS Element 25950.10.30	Performance Period Start*/End Date TBD-TBD	Design 3020	\$0.00
WBS Element 25950.20.10	Performance Period Start*/End Date TBD-TBD	Const. 3301	\$0.00

*The Local Agency should not begin work until all three (3) of the following are in place: 1) Phase Performance Period Start Date; 2) the execution of the document encumbering funds for the respective phase; and 3) Local Agency receipt of the official Notice to Proceed. Any work performed before these three (3) milestones are achieved will not be reimbursable.

B. Funding Ratios

The funding ratio for the federal funds for this Work is 100% federal funds to 0% Local Agency funds, and this ratio applies only to the \$482,977.00 that is eligible for federal funding. All other costs are borne by

the Local Agency at 100%. If the total cost of performance of the Work exceeds \$482,977.00, and additional federal funds are available for the Work, the Local Agency shall pay 0% of all such costs eligible for federal funding and 100% of all other costs. If additional federal funds are not available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than \$482,977.00, then the amounts of Local Agency and federal funds will be decreased in accordance with the funding ratio described in **A1. This applies to the entire scope of Work.**

C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be \$482,977.00. For CDOT accounting purposes, the federal funds of \$482,977.00 and the Local Agency funds of \$0.00 will be encumbered for a total encumbrance of \$482,977.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total budget is \$482,977.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency's awarded Agreement is less than the budgeted total of the federal funds and the Local Agency funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 7. E. of this contract. **This applies to the entire scope of Work.**

D. Single Audit Act Amendment

All state and local government and non-profit organizations receiving \$750,000 or more from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of 2 CFR part 200, subpart F (Audit Requirements) see also, 49 CFR 18.20 through 18.26. The Single Audit Act Amendment requirements applicable to the Local Agency receiving federal funds are as follows:

i. Expenditure less than \$750,000

If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.

ii. Expenditure of \$750,000 or more-Highway Funds Only

If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.

iii. Expenditure of \$750,000 or more-Multiple Funding Sources

If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.

iv. Independent CPA

Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.

EXHIBIT D

LOCAL AGENCY RESOLUTION (IF APPLICABLE)

EXHIBIT E: LOCAL AGENCY ADMINISTRATION CHECKLIST

COLORADO DEPARTMENT OF TRANSPORTATION LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST			
Project No. SAR M086-100	STIP No. SR26868	Project Code 25950	Region 2
Project Location East Pueblo Colorado near Park Elementary School			Date 8/7/2023
Project Description Pueblo SRTS Walk and Roll Safety			
Local Agency		Local Agency Project Manager	
City of Pueblo		Charles Roy	
CDOT Resident Engineer Lachelle Davis		CDOT Project Manager Don Scanga	
INSTRUCTIONS: This checklist shall be utilized to establish the contract administration responsibilities of the individual parties to this agreement. The checklist becomes an attachment to the Local Agency agreement. Section numbers correspond to the applicable chapters of the <i>CDOT Local Agency Manual</i>. The checklist shall be prepared by placing an "X" under the responsible party, opposite each of the tasks. The "X" denotes the party responsible for initiating and executing the task. Only one responsible party should be selected. When neither CDOT nor the Local Agency is responsible for a task, not applicable (NA) shall be noted. In addition, a "#" will denote that CDOT must concur or approve. Tasks that will be performed by Headquarters staff will be indicated. The Regions, in accordance with established policies and procedures, will determine who will perform all other tasks that are the responsibility of CDOT. The checklist shall be prepared by the CDOT Resident Engineer or the CDOT Project Manager, in cooperation with the Local Agency Project Manager, and submitted to the Region Program Engineer. If contract administration responsibilities change, the CDOT Resident Engineer, in cooperation with the Local Agency Project Manager, will prepare and distribute a revised checklist. Note: Failure to comply with applicable Federal and State requirements may result in the loss of Federal or State participation in funding.			

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
TIP / STIP AND LONG-RANGE PLANS			
2.1	Review Project to ensure it is consist with STIP and amendments thereto		X
FEDERAL FUNDING OBLIGATION AND AUTHORIZATION			
4.1	Authorize funding by phases (CDOT Form 418 - Federal-aid Program Data. Requires FHWA concurrence/involvement)		X
PROJECT DEVELOPMENT			
5.1	Prepare Design Data - CDOT Form 463	X	X
5.2	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		X
5.3	Conduct Consultant Selection/Execute Consultant Agreement	X	
5.4	Conduct Design Scoping Review Meeting	X	
5.5	Conduct Public Involvement	X	
5.6	Conduct Field Inspection Review (FIR)	X	
5.7	Conduct Environmental Processes (may require FHWA concurrence/involvement)	X	
5.8	Acquire Right-of-Way (may require FHWA concurrence/involvement)	X	
5.9	Obtain Utility and Railroad Agreements	X	
5.10	Conduct Final Office Review (FOR)	X	
5.11	Justify Force Account Work by the Local Agency	X	

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
5.12	Justify Proprietary, Sole Source, or Local Agency Furnished Items	X	
5.13	Document Design Exceptions - CDOT Form 464	X	
5.14	Prepare Plans, Specifications and Construction Cost Estimates	X	
5.15	Ensure Authorization of Funds for Construction		X
PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE			
6.1	Set Underutilized Disadvantaged Business Enterprise (UBDE) Goals for Consultant and Construction Contracts (CDOT Region EEO/Civil Rights Specialist)		X
6.2	Determine Applicability of Davis-Bacon Act This project ☐ is X is not exempt from Davis-Bacon requirements as determined by the functional classification of the project location (Projects located on local roads and rural minor collectors may be exempt.) Lachelle Davis CDOT Resident Engineer (Signature on File) 6/3/2021 Date		X
6.3	Set On-the-Job Training Goals. Goal is zero if total construction is less than \$1 million (CDOT Region EEO/Civil Rights Specialist)		X
6.4	Title VI Assurances	X	
	Ensure the correct Federal Wage Decision, all required Disadvantaged Business Enterprise/On-the-Job Training special provisions and FHWA Form 1273 are included in the Contract (CDOT Resident Engineer)		X
ADVERTISE, BID AND AWARD			
7.1	Obtain Approval for Advertisement Period of Less Than Three Weeks	X	
7.2	Advertise for Bids	X	
7.3	Distribute "Advertisement Set" of Plans and Specifications	X	
7.4	Review Worksite and Plan Details with Prospective Bidders While Project Is Under Advertisement	X	
7.5	Open Bids	X	
7.6	Process Bids for Compliance		
	Check CDOT Form 715 - Certificate of Proposed Underutilized DBE Participation when the low bidder meets UDBE goals		X
	Evaluate CDOT Form 718 - Underutilized DBE Good Faith Effort Documentation and determine if the Contractor has made a good faith effort when the low bidder does not meet DBE goals		X
	Submit required documentation for CDOT award concurrence	X	
7.7	Concurrence from CDOT to Award		X
7.8	Approve Rejection of Low Bidder		X
7.9	Award Contract	X	
7.10	Provide "Award" and "Record" Sets of Plans and Specifications	X	
CONSTRUCTION MANAGEMENT			
8.1	Issue Notice to Proceed to the Contractor	X	
8.2	Project Safety	X	X
8.3	Conduct Conferences:		
	Pre-Construction Conference (Appendix B)	X	
	Pre-survey		
	• Construction staking	X	
	• Monumentation	X	
	Partnering (Optional)	X	
	Structural Concrete Pre-Pour (Agenda is in <i>CDOT Construction Manual</i>)	X	
	Concrete Pavement Pre-Paving (Agenda is in <i>CDOT Construction Manual</i>)	X	
	HMA Pre-Paving (Agenda is in <i>CDOT Construction Manual</i>)	X	
8.4	Develop and distribute Public Notice of Planned Construction to media and local residents	X	
8.5	Supervise Construction		

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
	A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision." <u>Charles Roy, P.E.</u> <u>719-553-2271</u> Local Agency Professional Engineer or Phone number CDOT Resident Engineer	X	
	Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications	X	
	Construction inspection and documentation	X	
8.6	Approve Shop Drawings	X	
8.7	Perform Traffic Control Inspections	X	
8.8	Perform Construction Surveying	X	
8.9	Monument Right-of-Way	X	
8.10	Prepare and Approve Interim and Final Contractor Pay Estimates Provide the name and phone number of the person authorized for this task. <u>Kelly Grisham</u> <u>(719) 553-2254</u> Local Agency Representative Phone number	X	
8.11	Prepare and Approve Interim and Final Utility and Railroad Billings	X	
8.12	Prepare and Authorize Change Orders	X	
8.13	Submit Change Order Package to CDOT	X	
8.14	Prepare Local Agency Reimbursement Requests	X	
8.15	Monitor Project Financial Status	X	
8.16	Prepare and Submit Monthly Progress Reports	X	
8.17	Resolve Contractor Claims and Disputes	X	
8.18	Conduct Routine and Random Project Reviews Provide the name and phone number of the person responsible for this task. <u>Don Scanga</u> <u>719-546-5434</u> CDOT Resident Engineer Phone number		X
MATERIALS			
9.1	Discuss Materials at Pre-Construction Meeting • Buy America documentation required prior to installation of steel	X	
9.2	Complete CDOT Form 250 - Materials Documentation Record • Generate form, which includes determining the minimum number of required tests and applicable material submittals for all materials placed on the project • Update the form as work progresses • Complete and distribute form after work is completed	X X	X
9.3	Perform Project Acceptance Samples and Tests	X	
9.4	Perform Laboratory Verification Tests	X	
9.5	Accept Manufactured Products Inspection of structural components: • Fabrication of structural steel and pre-stressed concrete structural components • Bridge modular expansion devices (0" to 6" or greater) • Fabrication of bearing devices	X X X	
9.6	Approve Sources of Materials	X	
9.7	Independent Assurance Testing (IAT), Local Agency Procedures ☐ CDOT Procedures X • Generate IAT schedule • Schedule and provide notification • Conduct IAT	X X X	
9.8	Approve mix designs • Concrete • Hot mix asphalt	X X	
9.9	Check Final Materials Documentation	X	
9.10	Complete and Distribute Final Materials Documentation	X	

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE			
10.1	Fulfill Project Bulletin Board and Pre-Construction Packet Requirements	X	
10.2	Process CDOT Form 205 - Sublet Permit Application Review and sign completed CDOT Form 205 for each subcontractor, and submit to EEO/Civil Rights Specialist	X	
10.3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews. Complete CDOT Form 280	X	
10.4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" Requirements	X	
10.5	Conduct Interviews When Project Utilizes On-the-Job Trainees. Complete CDOT Form 200 - OJT Training Questionnaire	X	
10.6	Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialists for training requirements.)	X	
10.7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	X	
FINALS			
11.1	Conduct Final Project Inspection. Complete and submit CDOT Form 1212 - Final Acceptance Report (Resident Engineer with mandatory Local Agency participation.)		X
11.2	Write Final Project Acceptance Letter	X	
11.3	Advertise for Final Settlement	X	
11.4	Prepare and Distribute Final As-Constructed Plans	X	
11.5	Prepare EEO Certification	X	
11.6	Check Final Quantities, Plans, and Pay Estimate; Check Project Documentation; and submit Final Certifications	X	
11.7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	X	
11.8	Obtain CDOT Form 17 from the Contractor and Submit to the Resident Engineer	X	
11.9	Obtain FHWA Form 47 - Statement of Materials and Labor Used ... from the Contractor	X	
11.10	Complete and Submit CDOT Form 1212 – Final Acceptance Report (by CDOT)		X
11.11	Process Final Payment		X
11.12	Complete and Submit CDOT Form 950 - Project Closure		X
11.13	Retain Project Records for Six Years from Date of Project Closure		X
11.14	Retain Final Version of Local Agency Contract Administration Checklist	X	

cc: CDOT Resident Engineer/Project Manager
CDOT Region Program Engineer
CDOT Region EEO/Civil Rights Specialist
CDOT Region Materials Engineer
CDOT Contracts and Market Analysis Branch
Local Agency Project Manager

EXHIBIT F
CERTIFICATION FOR FEDERAL-AID CONTRACTS

The Local Agency certifies, by signing this Agreement, to the best of its knowledge and belief, that:

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

EXHIBIT G

DISADVANTAGED BUSINESS ENTERPRISE

SECTION 1. Policy.

It is the policy of the Colorado Department of Transportation (CDOT) that disadvantaged business enterprises shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement, pursuant to 49 CFR Part 26. Consequently, the 49 CFR Part IE DBE requirements the Colorado Department of Transportation DBE Program (or a Local Agency DBE Program approved in advance by the State) apply to this agreement.

SECTION 2. DBE Obligation.

The recipient or the Local Agency agrees to ensure that disadvantaged business enterprises as determined by the Office of Certification at the Colorado Department of Regulatory Agencies have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all participants or contractors shall take all necessary and reasonable steps in accordance with the CDOT DBE program (or a Local Agency DBE Program approved in advance by the State) to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of CDOT assisted contracts.

SECTION 3 DBE Program.

The Local Agency (sub-recipient) shall be responsible for obtaining the Disadvantaged Business Enterprise Program of the Colorado Department of Transportation, 1988, as amended, and shall comply with the applicable provisions of the program. (If applicable).

A copy of the DBE Program is available from and will be mailed to the Local Agency

upon request: Business Programs Office

Colorado Department of Transportation

2829 West Howard Place Denver,

Colorado 80204

Phone: (303) 757-9007

REQUIRED BY 49 CFR
PART 26

EXHIBIT H

LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES

Title 23 Code of Federal Regulations (CFR) 172 applies to a federally funded Local Agency project agreement administered by CDOT that involves professional consultant services. 23 CFR 172.1 states “The policies and procedures involve federally funded contracts for engineering and design related services for projects subject to the provisions of 23 U.S.C. 112(a) and are issued to ensure that a qualified consultant is obtained through an equitable selection process, that prescribed work is properly accomplished in a timely manner, and at fair and reasonable cost” and according to 23 CFR 172.5 “Price shall not be used as a factor in the analysis and selection phase.” Therefore, local agencies must comply with these CFR requirements when obtaining professional consultant services under a federally funded consultant contract administered by CDOT.

CDOT has formulated its procedures in Procedural Directive (P.D.) 400.1 and the related operations guidebook titled "Obtaining Professional Consultant Services". This directive and guidebook incorporate requirements from both Federal and State regulations, i.e., 23 CFR 172 and CRS §24-30-1401 et seq. Copies of the directive and the guidebook may be obtained upon request from CDOT's Agreements and Consultant Management Unit. [Local agencies should have their own written procedures on file for each method of procurement that addresses the items in 23 CFR 172].

Because the procedures and laws described in the Procedural Directive and the guidebook are quite lengthy, the subsequent steps serve as a short-hand guide to CDOT procedures that a Local Agency must follow in obtaining professional consultant services. This guidance follows the format of 23 CFR 172. The steps are:

1. The contracting Local Agency shall document the need for obtaining professional services.
2. Prior to solicitation for consultant services, the contracting Local Agency shall develop a detailed scope of work and a list of evaluation factors and their relative importance. The evaluation factors are those identified in C.R.S. 24-30-1403. Also, a detailed cost estimate should be prepared for use during negotiations.
3. The contracting agency must advertise for contracts in conformity with the requirements of C.R.S. 24-30-1405. The public notice period, when such notice is required, is a minimum of 15 days prior to the selection of the three most qualified firms and the advertising should be done in one or more daily newspapers of general circulation.
4. The Local Agency shall not advertise any federal aid contract without prior review by the CDOT Regional Civil Rights Office (RCRO) to determine whether the contract shall be subject to a DBE contract goal. If the RCRO determines a goal is necessary, then the Local Agency shall include the goal and the applicable provisions within the advertisement. The Local Agency shall not award a contract to any Contractor or Consultant without the confirmation by the CDOT Civil Rights and Business Resource Center that the Contractor or Consultant has demonstrated good faith efforts. The Local Agency shall work with the CDOT RCRO to ensure compliance with the established terms during the performance of the contract.
5. The Local Agency shall require that all contractors pay subcontractors for satisfactory performance of work no later than 30 days after the receipt of payment for that work from the contractor. For construction projects, this time period shall be reduced to seven days in accordance with Colorado Revised Statute 24-91-103(2). If the Local Agency withholds retainage from contractors and/or allows contractors to withhold retainage from subcontractors, such retainage provisions must comply with 49 CFR 26.29.
6. Payments to all Subconsultants shall be made within thirty days of receipt of payment from [the Local Agency] or no later than ninety days from the date of the submission of a complete invoice from the Subconsultant, whichever occurs first. If the Consultant has good cause to dispute an amount invoiced by a Subconsultant, the Consultant shall notify [the Local Agency] no later than the required date for payment. Such notification shall include the amount disputed and justification for the withholding. The Consultant shall maintain records of payment that show amounts paid to all Subconsultants. Good cause does not include the Consultant's failure to submit an invoice to the Local Agency or to deposit payments made.
7. The analysis and selection of the consultants shall be done in accordance with CRS §24-30-1403. This section of the regulation identifies the criteria to be used in the evaluation of CDOT pre-qualified prime consultants and their team. It also shows which criteria are used to short-list and to make a final selection.

The short-list is based on the following evaluation factors:

- a. Qualifications,

- b. Approach to the Work,
- c. Ability to furnish professional services.
- d. Anticipated design concepts, and
- e. Alternative methods of approach for furnishing the professional services. Evaluation factors for final selection are the consultant's:

- a. Abilities of their personnel,
 - b. Past performance,
 - c. Willingness to meet the time and budget requirement,
 - d. Location,
 - e. Current and projected work load,
 - f. Volume of previously awarded contracts, and
 - g. Involvement of minority consultants.
8. Once a consultant is selected, the Local Agency enters into negotiations with the consultant to obtain a fair and reasonable price for the anticipated work. Pre-negotiation audits are prepared for contracts expected to be greater than \$50,000. Federal reimbursements for costs are limited to those costs allowable under the cost principles of 48 CFR 31. Fixed fees (profit) are determined with consideration given to size, complexity, duration, and degree of risk involved in the work. Profit is in the range of six to 15 percent of the total direct and indirect costs.
9. A qualified Local Agency employee shall be responsible and in charge of the Work to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of the contract. At the end of Work, the Local Agency prepares a performance evaluation (a CDOT form is available) on the consultant.

CRS §§24-30-1401 THROUGH 24-30-1408, 23 CFR PART 172, AND P.D. 400.1, PROVIDE ADDITIONAL DETAILS FOR COMPLYING WITH THE PRECEEDING EIGHT (8) STEPS.

EXHIBIT I

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants /

Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:

The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 CFR part 3](#))), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is used in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. *Fringe benefits not expressed as an hourly rate.* Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901](#)–3907.

3. Records and certified payrolls (29 CFR 5.5)

a. Basic record requirements (1) Length of record retention. All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) Information required. Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) Additional records relating to fringe benefits. Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) Additional records relating to apprenticeship. Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. Certified payroll requirements (1) Frequency and method of submission. The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) Information required. The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHDL/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) Statement of Compliance. Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in [29 CFR part 3](#); and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(4) Use of Optional Form WH-347. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(3) of this section.

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices (1) Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeymen on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeymen under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901](#)–3907.

4. **Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. **Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

- a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;
- b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;
- c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or
- d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and

health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

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

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

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

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

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

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

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

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

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

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**
This provision is applicable to all Federal-aid projects funded
under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT J

ADDITIONAL FEDERAL REQUIREMENTS

Federal laws and regulations that may be applicable to the Work include:

Executive Order 11246

Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60) (All construction contracts awarded in excess of \$10,000 by the Local Agencies and their contractors or the Local Agencies).

Copeland "Anti-Kickback" Act

The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3) (All contracts and sub-Agreements for construction or repair).

Davis-Bacon Act

The Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5) (Construction contracts in excess of \$2,000 awarded by the Local Agencies and the Local Agencies when required by Federal Agreement program legislation. This act requires that all laborers and mechanics employed by contractors or sub-contractors to work on construction projects financed by federal assistance must be paid wages not less than those established for the locality of the project by the Secretary of Labor).

Contract Work Hours and Safety Standards Act

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by the Local Agency's in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers).

Clean Air Act

Standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368). Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) (contracts, subcontracts, and sub-Agreements of amounts more than \$100,000).

Energy Policy and Conservation Act

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

OMB Circulars

Office of Management and Budget Circulars A-87, A-21 or A-122, and A-102 or A-110, whichever is applicable.

Hatch Act

The Hatch Act (5 USC 1501-1508) and Public Law 95-454 Section 4728. These statutes state that federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally assisted programs.

Nondiscrimination

The Local Agency shall not exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color national origin, sex, age or disability. Prior to the receipt of any Federal financial assistance from CDOT, the Local Agency shall execute the attached Standard DOT Title VI assurance. As appropriate, the Local Agency shall include Appendix A, B, or C to the Standard DOT Title VI assurance in any contract utilizing federal funds, land, or other aid. The Local Agency shall also include the following in all contract advertisements:

The [Local Agency], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (79 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, DBEs will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for any award.

ADA

In any contract utilizing federal funds, land, or other federal aid, the Local Agency shall require the federal-aid recipient or contractor to provide a statement of written assurance that they will comply with Section 504 and not discriminate on the basis of disability.

Uniform Relocation Assistance and Real Property Acquisition Policies Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended (Public Law 91-646, as amended and Public Law 100-17, 101 Stat. 246-256). (If the contractor is acquiring real property and displacing households or businesses in the performance of the Agreement).

Drug-Free Workplace Act

The Drug-Free Workplace Act (Public Law 100-690 Title V, subtitle D, 41 USC 701 et seq.).

Age Discrimination Act of 1975

The Age Discrimination Act of 1975, 42 U.S.C. Sections 6101 et. seq. and its implementing regulation, 45 C.F.R. Part 91; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, and implementing regulation 45 C.F.R. Part 84.

23 C.F.R. Part 172

23 C.F.R. Part 172, concerning "Administration of Engineering and Design Related Contracts".

23 C.F.R Part 633

23 C.F.R Part 633, concerning "Required Contract Provisions for Federal-Aid Construction Contracts".

23 C.F.R. Part 635

23 C.F.R. Part 635, concerning "Construction and Maintenance Provisions".

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973. The requirements for which are shown in the Nondiscrimination Provisions, which are attached hereto and made a part hereof.

Nondiscrimination Provisions:

In compliance with Title VI of the Civil Rights Act of 1964 and with Section 162(a) of the Federal Aid Highway Act of 1973, the Contractor, for itself, its assignees, and successors in interest, agree as follows:

i. Compliance with Regulations

The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

ii. Nondiscrimination

The Contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color, sex, mental or physical handicap or national origin in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix C of the Regulations.

iii. Solicitations for Subcontracts, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential Subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, sex, mental or physical handicap or national origin.

iv. Information and Reports

The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State, or the FHWA as appropriate and shall set forth what efforts have been made to obtain the information.

v. Sanctions for Noncompliance

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Agreement, the State shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to: **a.** Withholding of payments to the Contractor under the contract until the Contractor complies, and/or **b.** Cancellation, termination or suspension of the contract, in whole or in part.

Incorporation of Provisions §22

The Contractor will include the provisions of this Exhibit J in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such direction, the Contractor may request the State to enter into such litigation to protect the interest of the State and in addition, the Contractor may request the FHWA to enter into such litigation to protect the interests of the United States.

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SAMPLE

The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination

Assurances for Local Agencies

DOT Order No. 1050.2A

The [Local Agency] (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Colorado Department of Transportation and the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA), is subject to and will comply with the following:

Statutory/Regulatory Authorities

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

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

General Assurances

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

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

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

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FHWA, FTA, and FAA assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated or will be (with regard to a "facility") operated or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all FHWA, FTA and FAA programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:
3. "The [Local Agency] in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity

4. to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."
5. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
6. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
7. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
8. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
9. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
10. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
11. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
12. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the [Local Agency] also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA, FTA, and FAA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by CDOT, FHWA, FTA, or FAA. You must keep records, reports, and submit the material for review

upon request to CDOT, FHWA, FTA, or FAA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

[Local Agency] gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FHWA, FTA, and FAA. This ASSURANCE is binding on [Local Agency], other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FHWA, FTA, and FAA funded programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

(Name of Recipient)

by _____
(Signature of Authorized Official)

DATED _____

APPENDIX A

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

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

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the [Local Agency] will accept title to the lands and maintain the project constructed thereon in accordance with (*Name of Appropriate Legislative Authority*), the Regulations for the Administration of (*Name of Appropriate Program*), and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the [Local Agency] all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

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

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

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

APPENDIX C

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

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

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

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

APPENDIX D

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

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

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

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

APPENDIX E

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

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

EXHIBIT K

FFATA SUPPLEMENTAL FEDERAL PROVISIONS

**State of Colorado
Supplemental Provisions for
Federally Funded Contracts, Grants, and Purchase Orders
Subject to
The Federal Funding Accountability and Transparency Act of 2006 (FFATA), As Amended
Revised as of 3-20-13**

The contract, grant, or purchase order to which these Supplemental Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the contract or any attachments or exhibits incorporated into and made a part of the contract, the provisions of these Supplemental Provisions shall control.

1. Definitions. For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

1.1. “Award” means an award of Federal financial assistance that a non-Federal Entity receives or administers in the form of:

- 1.1.1.** Grants;
- 1.1.2.** Contracts;
- 1.1.3.** Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- 1.1.4.** Loans;
- 1.1.5.** Loan Guarantees;
- 1.1.6.** Subsidies;
- 1.1.7.** Insurance;
- 1.1.8.** Food commodities;
- 1.1.9.** Direct appropriations;
- 1.1.10.** Assessed and voluntary contributions; and
- 1.1.11.** Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

Award *does not* include:

- 1.1.12.** Technical assistance, which provides services in lieu of money;
- 1.1.13.** A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
- 1.1.14.** Any award classified for security purposes; or
- 1.1.15.** Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

1.2. “Contract” means the contract to which these Supplemental Provisions are attached and includes all Award types in §1.1.1 through 1.1.11 above.

1.3. “Contractor” means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.

1.4. “Data Universal Numbering System (DUNS) Number” means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.

1.5. “Entity” means all of the following as defined at 2 CFR part 25, subpartC;

- 1.5.1.** A governmental organization, which is a State, local government, or Indian Tribe;
- 1.5.2.** A foreign public entity;
- 1.5.3.** A domestic or foreign non-profit organization;

- 1.5.4. A domestic or foreign for-profit organization; and
- 1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 1.6. **“Executive”** means an officer, managing partner or any other employee in a management position.
- 1.7. **“Federal Award Identification Number (FAIN)”** means an Award number assigned by a Federal agency to a Prime Recipient.
- 1.8. **“FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109- 282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
- 1.9. **“Prime Recipient”** means a Colorado State agency or institution of higher education that receives an Award.
- 1.10. **“Subaward”** means a legal instrument pursuant to which a Prime Recipient of Award funds awards all or a portion of such funds to a Subrecipient, in exchange for the Subrecipient’s support in the performance of all or any portion of the substantive project or program for which the Award was granted.
- 1.11. **“Subrecipient”** means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subgrantee.
- 1.12. **“Subrecipient Parent DUNS Number”** means the subrecipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.
- 1.13. **“Supplemental Provisions”** means these Supplemental Provisions for Federally Funded Contracts, Grants, and Purchase Orders subject to the Federal Funding Accountability and Transparency Act of 2006, As Amended, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institution of higher education.
- 1.14. **“System for Award Management (SAM)”** means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 1.15. **“Total Compensation”** means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
 - 1.15.1. Salary and bonus;
 - 1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 1.16. **“Transparency Act”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.
- 1.17 **“Vendor”** means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

2. **Compliance.** Contractor shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, including but not limited to these Supplemental Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
3. **System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.**
 - 3.1. **SAM.** Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
 - 3.2. **DUNS.** Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor's information.
4. **Total Compensation.** Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 4.1. The total Federal funding authorized to date under the Award is \$25,000 or more; and
 - 4.2. In the preceding fiscal year, Contractor received:
 - 4.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.
5. **Reporting.** Contractor shall report data elements to SAM and to the Prime Recipient as required in §7 below if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Supplemental Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in §7 below are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract, as provided in §2 above. The Colorado Office of the State Controller will provide summaries of revised OMB reporting requirements at <http://www.colorado.gov/dpa/dfp/sco/FFATA.htm>.
6. **Effective Date and Dollar Threshold for Reporting.** The effective date of these Supplemental Provisions apply to new Awards as of October 1, 2010. Reporting requirements in §7 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.
7. **Subrecipient Reporting Requirements.** If Contractor is a Subrecipient, Contractor shall report as set forth below.

7.1 To SAM. A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Subaward was made:

7.1.1 Subrecipient DUNS Number;

7.1.2 Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;

7.1.3 Subrecipient Parent DUNS Number;

7.1.4 Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

7.1.5 Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and

7.1.6 Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.

7.2 To Prime Recipient. A Subrecipient shall report to its Prime Recipient, upon the effective date of the Contract, the following data elements:

7.2.1 Subrecipient's DUNS Number as registered in SAM.

7.2.2 Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

8. Exemptions.

8.1. These Supplemental Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

8.2 A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

8.3 Effective October 1, 2010, "Award" currently means a grant, cooperative agreement, or other arrangement as defined in Section 1.1 of these Special Provisions. On future dates "Award" may include other items to be specified by OMB in policy memoranda available at the OMB Web site; Award also will include other types of Awards subject to the Transparency Act.

8.4 There are no Transparency Act reporting requirements for Vendors.

Event of Default. Failure to comply with these Supplemental Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

EXHIBIT L

SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT

CDOT SUBRECIPIENT RISK ASSESSMENT		Date:	
Name of Entity (Subrecipient):			
Name of Project / Program:			
Estimated Award Period:			
Entity Executive Director or VP:			
Entity Chief Financial Officer:			
Entity Representative for this Self Assessment:			
Instructions: (See "Instructions" tab for more information) 1. Check only one box for each question. All questions are required to be answered. 2. Utilize the "Comment" section below the last question for additional responses. 3. When complete, check the box at the bottom of the form to authorize.		Yes	No
		N/A	
EXPERIENCE ASSESSMENT		Yes	No
		N/A	
1	Is your entity new to operating or managing federal funds (has not done so within the past three years)?	☐	☐
2	Is this funding program new for your entity (managed for less than three years)? <i>Examples of funding programs include CMAQ, TAP, STP-M, etc.</i>	☐	☐
3	Does your staff assigned to the program have at least three full years of experience with this federal program?	☐	☐
MONITORING/AUDIT ASSESSMENT		Yes	No
		N/A	
4	Has your entity had an on-site project or grant review from an external entity (e.g., CDOT, FHWA) within the last three years?	☐	☐
5 a)	Were there non-compliance issues in this prior review?	☐	☐
5 b)	What were the number and extent of issues in prior review?	☐ 1 to 2	☐ >3
OPERATION ASSESSMENT		Yes	No
		N/A	
6	Does your entity have a time and effort reporting system in place to account for 100% of all employees' time, that can provide a breakdown of the actual time spent on each funded project? <i>If No, in the comment section please explain how you intend to document 100% of hours worked by employees and breakdown of time spent on each funding project.</i>	☐	☐
FINANCIAL ASSESSMENT		Yes	No
		N/A	
7 a)	Does your entity have an indirect cost rate that is approved and current?	☐	☐
7 b)	If Yes, who approved the rate, and what date was it approved?		
8	Is this grant/award 10% or more of your entity's overall funding?	☐ >10%	☐ <10%
9	Has your entity returned lapsed* funds? *Funds "lapse" when they are no longer available for obligation.	☐	☐
10	Has your entity had difficulty meeting local match requirements in the last three years?	☐	☐
11	What is the total federal funding your entity has been awarded for the last federal fiscal year, and what is your entity's fiscal year end?		

INTERNAL CONTROLS ASSESSMENT		Yes	No	N/A
12	Has your entity had any significant changes in key personnel or accounting system(s) in the last year? (e.g., Controller, Exec Director, Program Mgr, Accounting Mgr, etc.) If Yes, in the comment section, please identify the accounting system(s), and / or list personnel positions and identify any that are vacant.	☐	☐	☐
13	Does your entity have financial procedures and controls in place to accommodate a federal-aid project?	☐	☐	
14	Does your accounting system identify the receipts and expenditures of program funds separately for each award?	☐	☐	
15	Will your accounting system provide for the recording of expenditures for each award by the budget cost categories shown in the approved budget?	☐	☐	
16	Does your agency have a review process for all expenditures that will ensure that all costs are reasonable, allowable and allocated correctly to each funding source? If Yes, in the comment section, please explain your current process for reviewing costs.	☐	☐	☐
17	How many total FTE perform accounting functions within your organization?	☐ ≥ 6	☐ 2 to 5	☐ < 2
IMPACT ASSESSMENT		Yes	No	N/A
18	For this upcoming federal award or in the immediate future, does your entity have any potential conflicts of interest* in accordance with applicable Federal awarding agency policy? If Yes, please disclose these conflicts in writing, along with supporting information, and submit with this form. (*Any practices, activities or relationships that reasonably appear to be in conflict with the full performance of the Subrecipient's obligations to the State.)	☐	☐	
19	For this award, has your entity disclosed to CDOT, in writing, violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award? Response options: YES = Check if have one or more violation(s) and have either disclosed previously to CDOT or as part of this form. In the comment section, list all violations with names of supporting documentation and submit with this form. NO = Check if have one or more violation(s) and have not disclosed previously or will not disclose as part of this form. Explain in the comment section. N/A = Check if have no violations.	☐	☐	☐
PROGRAM MANAGEMENT ASSESSMENT		Yes	No	N/A
20	Does your entity have a written process/procedure or certification statement approved by your governing board ensuring critical project personnel are capable of effectively managing Federal-aid projects? If Yes, please submit with this form.	☐	☐	☐
21	Does your entity have written procurement policies or certification statement for consultant selection approved by your governing board in compliance with 23 CFR 172*? If Yes, please submit with this form. (*The Brooks Act requires agencies to promote open competition by advertising, ranking, selecting, and negotiating contracts based on demonstrated competence and qualifications, at a fair and reasonable price.)	☐	☐	☐
22	a) Is your staff familiar with the relevant CDOT manuals and federal program requirements?	☐	☐	☐
	b) Does your entity have a written policy or a certification statement approved by your governing board assuring federal-aid projects will receive adequate inspections? If Yes, please submit with this form.	☐	☐	☐
	c) Does your entity have a written process or a certification statement approved by your governing board assuring a contractor's work will be completed in conformance with approved plans and specifications? If Yes, please submit with this form.	☐	☐	☐

d) Does your entity have a written policy or certification statement approved by your governing board assuring that materials installed on the projects are sampled and tested per approved processes. <i>If Yes, please submit with this form.</i>	☐	☐	☐
e) Does your entity have a written policy or certification statement approved by your governing board assuring that only US manufactured steel will be incorporated into the project (<i>Buy America requirements</i>)? <i>If Yes, please submit with this form.</i>	☐	☐	☐
Comments - As needed, include the question number and provide comments related to the above questions. Insert additional rows as needed.			
☐ By checking this box, the Executive Director, VP or Chief Financial Officer of this entity certifies that all information provided on this form is true and correct.			


Tool Version:
v2.0 (081816)

EXHIBIT M

OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS

**Subject to
The Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and
Audit Requirements for Federal Awards (“Uniform Guidance”),
Federal Register, Vol. 78, No. 248, 78590**

The agreement to which these Uniform Guidance Supplemental Provisions are attached has been funded, in whole or in part, with an award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the agreement or any attachments or exhibits incorporated into and made a part of the agreement, the provisions of these Uniform Guidance Supplemental Provisions shall control. In the event of a conflict between the provisions of these Supplemental Provisions and the FFATA Supplemental Provisions, the FFATA Supplemental Provisions shall control.

1. Definitions. For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

- 1.1. “Award”** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise. 2 CFR §200.38
- 1.2. “Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- 1.3. “Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. 2 CFR §200.37
- 1.4. “FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 1.5. “Grant” or “Grant Agreement”** means an agreement setting forth the terms and conditions of an Award. The term does not include an agreement that provides only direct Federal cash assistance to an individual, a subsidy, a loan, a loan guarantee, insurance, or acquires property or services for the direct benefit of use of the Federal Awarding Agency or Recipient. 2 CFR §200.51.
- 1.6. “OMB”** means the Executive Office of the President, Office of Management and Budget.
- 1.7. “Recipient”** means a Colorado State department, agency or institution of higher education that receives a Federal Award from a Federal Awarding Agency to carry out an activity under a Federal program. The term does not include Subrecipients. 2 CFR §200.86
- 1.8. “State”** means the State of Colorado, acting by and through its departments, agencies and institutions of higher education.
- 1.9. “Subrecipient”** means a non-Federal entity receiving an Award from a Recipient to carry out part of a Federal program. The term does not include an individual who is a beneficiary of such program.
- 1.10. “Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

- 1.11. “Uniform Guidance Supplemental Provisions”** means these Supplemental Provisions for Federal Awards subject to the OMB Uniform Guidance, as may be revised pursuant to ongoing guidance from relevant Federal agencies or the Colorado State Controller.
- 2. Compliance.** Subrecipient shall comply with all applicable provisions of the Uniform Guidance, including but not limited to these Uniform Guidance Supplemental Provisions. Any revisions to such provisions automatically shall become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Subrecipient of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3. Procurement Standards.**
- 3.1 Procurement Procedures.** Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation,
§§200.318 through 200.326 thereof.
- 3.2 Procurement of Recovered Materials.** If Subrecipient is a State Agency or an agency of a political subdivision of a state, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 4. Access to Records.** Subrecipient shall permit Recipient and auditors to have access to Subrecipient’s records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).
- 5. Single Audit Requirements.** If Subrecipient expends \$750,000 or more in Federal Awards during Subrecipient’s fiscal year, Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR §200.501.
- 5.1 Election.** Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 5.2 Exemption.** If Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government

Accountability Office.

- 5.3 Subrecipient Compliance Responsibility.** Subrecipient shall procure or otherwise arrange for the audit required by Part F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Uniform Guidance §200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Part F-Audit Requirements.

- 6. Contract Provisions for Subrecipient Contracts.** Subrecipient shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Grant Agreement.

- 6.1 Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

“During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments

under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled,

terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

6.2 Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40

U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

6.3 Rights to Inventions Made Under a Contract or Agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

6.4 Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251- 1387), as amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection

Agency (EPA).

6.5 Debarment and Suspension (Executive Orders 12549 and 12689). A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAMExclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

6.6 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

7. Certifications. Unless prohibited by Federal statutes or regulations, Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR §200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR §200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

7.1 Event of Default. Failure to comply with these Uniform Guidance Supplemental Provisions shall constitute an event of default under the Grant Agreement (2 CFR §200.339) and the State may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.

8. Effective Date. The effective date of the Uniform Guidance is December 26, 2013. 2 CFR §200.110. The procurement standards set forth in Uniform Guidance §§200.317-200.326 are applicable to new Awards made by Recipient as of December 26, 2015. The standards set forth in Uniform Guidance Subpart F-Audit Requirements are applicable to audits of fiscal years beginning on or after December 26, 2014.

9. Performance Measurement. The Uniform Guidance requires completion of OMB-approved standard information collection forms (the PPR). The form focuses on outcomes, as related to the Federal Award Performance Goals that awarding Federal agencies are required to detail in the Awards.

Section 200.301 provides guidance to Federal agencies to measure performance in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes.

The Federal awarding agency is required to provide recipients with clear performance goals, indicators, and milestones (200.210). Also, must require the recipient to relate financial data to performance accomplishments of the Federal award.

Exhibit N

Federal Treasury Provisions

1. APPLICABILITY OF PROVISIONS.

- 1.1. The Grant to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.
- 1.2. The State of Colorado is accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the SLFRF statute, SLFRF Award Terms and Conditions, Treasury's Final Rule, and reporting requirements, as applicable.
- 1.3. Additionally, any subrecipient that issues a subaward to another entity (2nd tier subrecipient), must hold the 2nd tier subrecipient accountable to these provisions and adhere to reporting requirements.
- 1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
 - 2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
 - 2.1.2. "Entity" means:
 - 2.1.2.1. a Non-Federal Entity;
 - 2.1.2.2. a foreign public entity;
 - 2.1.2.3. a foreign organization;
 - 2.1.2.4. a non-profit organization;
 - 2.1.2.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
 - 2.1.2.6. a foreign non-profit organization (only for 2 CFR part 170) only);
 - 2.1.2.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
 - 2.1.2.8. a foreign for-profit organization (for 2 CFR part 170 only).
 - 2.1.3. "Executive" means an officer, managing partner or any other employee in a management position.
 - 2.1.4. "Expenditure Category (EC)" means the category of eligible uses as defined by the US Department of Treasury in "Appendix 1 of the Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

- 2.1.5. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1
- 2.1.6. “Grant” means the Grant to which these Federal Provisions are attached.
- 2.1.7. “Grantee” means the party or parties identified as such in the Grant to which these Federal Provisions are attached.
- 2.1.8. “Non-Federal Entity” means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.
- 2.1.9. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
- 2.1.9.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
 - 2.1.9.2. Is not organized primarily for profit; and
 - 2.1.9.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 2.1.10. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.11. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 2.1.12. “Prime Recipient” means the Colorado State agency or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.
- 2.1.13. “Subaward” means an award by a Prime Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.
- 2.1.14. “Subrecipient” or “Subgrantee” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term does not include an individual who is a beneficiary of a federal program.
- 2.1.15. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year (see 48 CFR 52.204-10, as prescribed in 48 CFR 4.1403(a)) and includes the following:
- 2.1.15.1. Salary and bonus;
 - 2.1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the

fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;

- 2.1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 2.1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 2.1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 2.1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.16. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 2.1.17. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
- 2.1.18. “Unique Entity ID” means the Unique Entity ID established by the federal government for a Grantee at <https://sam.gov/content/home>.

3. COMPLIANCE.

- 3.1. Grantee shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all applicable provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado, at its discretion, may provide written notification to Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3.2. Per US Treasury Final Award requirements, grantee programs or services must not include a term or conditions that undermines efforts to stop COVID-19 or discourages compliance with recommendations and CDC guidelines.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND UNIQUE ENTITY ID (UEI) REQUIREMENTS.

- 4.1. SAM. Grantee shall maintain the currency of its information in SAM until the Grantee submits the final financial report required under the Award or receives final payment, whichever is later. Grantee shall review and update SAM information at least annually.
- 4.2. UEI. Grantee shall provide its Unique Entity ID to its Prime Recipient, and shall update Grantee’s information in Sam.gov at least annually.

5. TOTAL COMPENSATION.

- 5.1. Grantee shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 5.1.1. The total Federal funding authorized to date under the Award is \$30,000 or more; and
 - 5.1.2. In the preceding fiscal year, Grantee received:

- 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
- 5.1.2.2. \$30,000,000 or more in annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
- 5.1.2.3. 5.1.2.3 The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

6. REPORTING.

- 6.1. If Grantee is a Subrecipient of the Award pursuant to the Transparency Act, Grantee shall report data elements to SAM and to the Prime Recipient as required in this Exhibit. No direct payment shall be made to Grantee for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of Grantee's obligations under this Grant.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR FEDERAL REPORTING.

- 7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$30,000 or more. If the initial Award is below \$30,000 but subsequent Award modifications result in a total Award of \$30,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$30,000. If the initial Award is \$30,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the Award shall continue to be subject to the reporting requirements. If the total award is below \$30,000 no reporting required; if more than \$30,000 and less than \$50,000 then FFATA reporting is required; and, \$50,000 and above SLFRF reporting is required.
- 7.2. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

8. SUBRECIPIENT REPORTING REQUIREMENTS.

- 8.1. Grantee shall report as set forth below.
 - 8.1.1. Grantee shall use the SLFRF Subrecipient Quarterly Report Workbook as referenced in Exhibit P to report to the State Agency within ten (10) days following each quarter ended September, December, March and June. Additional information on specific requirements are detailed in the SLFRF Subrecipient Quarterly Report Workbooks and "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

EC 1 – Public Health

All Public Health Projects

- a) Description of structure and objectives
- b) Description of relation to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification
 - v. Labor reporting

COVID-19 Interventions and Mental Health (1.4, 1.11, 1.12, 1.13)

- a) Amount of total project used for evidence-based programs
- b) Evaluation plan description

COVID-19 Small Business Economic Assistance (1.8)

- a) Number of small businesses served

COVID-19 Assistance to Non-Profits (1.9)

- a) Number of non-profits served

COVID-19 Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (1.10)

- a) Sector of employer
- b) Purpose of funds

EC 2 – Negative Economic Impacts

All Negative Economic Impacts Projects

- a) Description of project structure and objectives
- b) Description of project's response to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Amount of total project used for evidence-based programs and description of evaluation plan (*not required for 2.5, 2.8, 2.21-2.24, 2.27-2.29, 2.31, 2.34-2.36*)
- e) Number of workers enrolled in sectoral job training programs
- f) Number of workers completing sectoral job training programs
- g) Number of people participating in summer youth employment programs
- h) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification
 - v. Labor reporting

Household Assistance (2.1-2.8)

- a) Number of households served

- b) Number of people or households receiving eviction prevention services (2.2 & 2.5 only) *(Federal guidance may change this requirement in July 2022)*
- c) Number of affordable housing units preserved or developed (2.2 & 2.5 only) *(Federal guidance may change this requirement in July 2022)*

Healthy Childhood Environments (2.11-2.13)

- a) Number of children served by childcare and early learning *(Federal guidance may change this requirement in July 2022)*
- b) Number of families served by home visiting *(Federal guidance may change this requirement in July 2022)*

Education Assistance (2.14, 2.24-2.27)

- a) National Center for Education Statistics (“NCES”) School ID or NCES District ID
- b) Number of students participating in evidence-based programs *(Federal guidance may change this requirement in July 2022)*

Housing Support (2.15, 2.16, 2.18)

- a) Number of people or households receiving eviction prevention services *(Federal guidance may change this requirement in July 2022)*
- b) Number of affordable housing units preserved or developed *(Federal guidance may change this requirement in July 2022)*

Small Business Economic Assistance (2.29-2.33)

- a) Number of small businesses served

Assistance to Non-Profits (2.34)

- a) Number of non-profits served

Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (2.35-2.36)

- a) Sector of employer
- b) Purpose of funds
- c) If other than travel, tourism and hospitality (2.36) – description of hardship

EC 3 – Public Health – Negative Economic Impact: Public Sector Capacity

Payroll for Public Health and Safety Employees (EC 3.1)

- a) Number of government FTEs responding to COVID-19

Rehiring Public Sector Staff (EC 3.2)

- a) Number of FTEs rehired by governments

EC 4 – Premium Pay

All Premium Pay Projects

- a) List of sectors designated as critical by the chief executive of the jurisdiction, if beyond those listed in the final rule
- b) Numbers of workers served
- c) Employer sector for all subawards to third-party employers
- d) Written narrative justification of how premium pay is responsive to essential work during the public health emergency for non-exempt workers or those making over 150 percent of the state/county’s average annual wage

- e) Number of workers to be served with premium pay in K-12 schools

EC 5 – Infrastructure Projects

All Infrastructure Projects

- a) Projected/actual construction start date (month/year)
- b) Projected/actual initiation of operations date (month/year)
- c) Location (for broadband, geospatial data of locations to be served)
- d) Projects over \$10 million
 - i. Prevailing wage certification or detailed project employment and local impact report
 - ii. Project labor agreement certification or project workforce continuity plan
 - iii. Prioritization of local hires
 - iv. Community benefit agreement description, if applicable

Water and sewer projects (EC 5.1-5.18)

- a) National Pollutant Discharge Elimination System (NPDES) Permit Number (if applicable; for projects aligned with the Clean Water State Revolving Fund)
- b) Public Water System (PWS) ID number (if applicable; for projects aligned with the Drinking Water State Revolving Fund)
- c) Median Household Income of service area
- d) Lowest Quintile Income of the service area

Broadband projects (EC 5.19-5.21)

- a) Confirm that the project is designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds.
 - i. If the project is not designed to reliably meet or exceed symmetrical 100 Mbps download and upload speeds, explain why not, and
 - ii. Confirm that the project is designed to, upon completion, meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.
- b) Additional programmatic data will be required for broadband projects and will be defined in a subsequent version of the US Treasury Reporting Guidance, including, but not limited to (*Federal guidance may change this requirement in July 2022*):
 - i. Number of households (broken out by households on Tribal lands and those not on Tribal lands) that have gained increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, with the number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download and number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload
 - ii. Number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) that have projected increased access to broadband meeting the minimum speed standards in areas that previously

lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization, with the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

- iii. Narrative identifying speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering, technology to be deployed, miles of fiber, cost per mile, cost per passing, number of households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download, number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload, and number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization. Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

All Expenditure Categories

- a) Program income earned and expended to cover eligible project costs
- 8.1.2. A Subrecipient shall report the following data elements to Prime Recipient no later than five days after the end of the month following the month in which the Subaward was made.
- 8.1.2.1. Subrecipient Unique Entity ID;
 - 8.1.2.2. Subrecipient Unique Entity ID if more than one electronic funds transfer (EFT) account;
 - 8.1.2.3. Subrecipient parent's organization Unique Entity ID;
 - 8.1.2.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

- 8.1.2.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
 - 8.1.2.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.
- 8.1.3. To Prime Recipient. A Subrecipient shall report to its Prime Recipient, the following data elements:
- 8.1.3.1. Subrecipient's Unique Entity ID as registered in SAM.
 - 8.1.3.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.
 - 8.1.3.3. Narrative identifying methodology for serving disadvantaged communities. See the "Project Demographic Distribution" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. This requirement is applicable to all projects in Expenditure Categories 1 and 2.
 - 8.1.3.4. Narrative identifying funds allocated towards evidenced-based interventions and the evidence base. See the "Use of Evidence" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. See section 8.1.1 for relevant Expenditure Categories.
 - 8.1.3.5. Narrative describing the structure and objectives of the assistance program and in what manner the aid responds to the public health and negative economic impacts of COVID-19. This requirement is applicable to Expenditure Categories 1 and 2. For aid to travel, tourism, and hospitality or other impacted industries (EC 2.11-2.12), also provide the sector of employer, purpose of funds, and if not travel, tourism and hospitality a description of the pandemic impact on the industry.
 - 8.1.3.6. Narrative identifying the sector served and designated as critical to the health and well-being of residents by the chief executive of the jurisdiction and the number of workers expected to be served. For groups of workers (e.g., an operating unit, a classification of worker, etc.) or, to the extent applicable, individual workers, other than those where the eligible worker receiving premium pay is earning (with the premium pay included) below 150 percent of their residing state or county's average annual wage for all occupations, as defined by the Bureau of Labor Statistics Occupational Employment and Wage Statistics, whichever is higher, OR the eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions, include justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers' duties, health or financial risks faced due to COVID-19 but should not include personally identifiable information. This requirement applies to EC 4.1, and 4.2.
 - 8.1.3.7. For infrastructure projects (EC 5), or capital expenditures in any expenditure category, narrative identifying the projected construction start date (month/year), projected initiation of operations date (month/year), and location (for broadband, geospatial location data). For projects over \$10 million:
 - 8.1.3.8. Certification that all laborers and mechanics employed by Contractors and Subcontractors in the performance of such project are paid wages at rates not less

than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the Agreement work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing (1) the number of employees of Contractors and sub-contractors working on the project; (2) the number of employees on the project hired directly and hired through a third party; (3) the wages and benefits of workers on the project by classification; and (4) whether those wages are at rates less than those prevailing. Recipients must maintain sufficient records to substantiate this information upon request.

- 8.1.3.8.1. A Subrecipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing: (1) how the Subrecipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project; (2) how the Subrecipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and (3) how the Subrecipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; (4) whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and (5) whether the project has completed a project labor agreement.
 - 8.1.3.8.2. Whether the project prioritizes local hires.
 - 8.1.3.8.3. Whether the project has a Community Benefit Agreement, with a description of any such agreement.
- 8.1.4. Subrecipient also agrees to comply with any reporting requirements established by the US Treasury, Governor's Office and Office of the State Controller. The State of Colorado may need additional reporting requirements after this agreement is executed. If there are additional reporting requirements, the State will provide notice of such additional reporting requirements via Exhibit Q – SLFRF Reporting Modification Form.

9. PROCUREMENT STANDARDS.

- 9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.
- 9.2. Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all Agreements and purchase orders for work or products under this award.
- 9.3. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ACCESS TO RECORDS.

- 10.1. A Subrecipient shall permit Prime Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

11. SINGLE AUDIT REQUIREMENTS.

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.

- 11.1.1. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 11.1.2. Exemption. If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
- 11.1.3. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

12. GRANT PROVISIONS FOR SUBRECIPIENT AGREEMENTS.

- 12.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Grantees that are Subrecipients shall comply with the following provisions. Subrecipients shall include all of the following applicable provisions in all Subcontractors entered into by it pursuant to this Grant.
 - 12.1.1. [Applicable to federally assisted construction Agreements.] Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all Agreements that meet the definition of "federally assisted construction Agreement" in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor.
 - 12.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).

- 12.1.3. Rights to Inventions Made Under a grant or agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the Prime Recipient or Subrecipient wishes to enter into an Agreement with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Prime Recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Agreements and Cooperative Agreements,” and any implementing regulations issued by the Federal Awarding Agency.
- 12.1.4. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Agreements and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal awardees to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).
- 12.1.5. Debarment and Suspension (Executive Orders 12549 and 12689). A Agreement award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in SAM, in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 12.1.6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 12.1.7. Never Contract with the Enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing “Never Contract with the Enemy” in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered Agreements, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.
- 12.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

- 12.1.9. Title VI of the Civil Rights Act. The Subgrantee, Contractor, Subcontractor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CRF Part 22, and herein incorporated by reference and made part of this Agreement or agreement.

13. CERTIFICATIONS.

- 13.1. Subrecipient Certification. Subrecipient shall sign a "State of Colorado Agreement with Recipient of Federal Recovery Funds" Certification Form in Exhibit E and submit to State Agency with signed grant agreement.
- 13.2. Unless prohibited by Federal statutes or regulations, Prime Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

14. EXEMPTIONS.

- 14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 14.2. A Grantee with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

15. EVENT OF DEFAULT AND TERMINATION.

- 15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and the State of Colorado may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.
- 15.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:
- 15.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;
- 15.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;

- 15.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- 15.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or
- 15.2.5. By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

EXHIBIT O

AGREEMENT WITH SUBSUBRECIPIENT OF FEDERAL RECOVERY FUNDS

Section 602(b) of the Social Security Act (the Act), as added by section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021), authorizes the Department of the Treasury (Treasury) to make payments to certain Subrecipients from the Coronavirus State Fiscal Recovery Fund. The State of Colorado has signed and certified a separate agreement with Treasury as a condition of receiving such payments from the Treasury. This agreement is between your organization and the State and your organization is signing and certifying the same terms and conditions included in the State's separate agreement with Treasury. Your organization is referred to as a Subrecipient.

As a condition of your organization receiving federal recovery funds from the State, the authorized representative below hereby (i) certifies that your organization will carry out the activities listed in section 602(c) of the Act and (ii) agrees to the terms attached hereto. Your organization also agrees to use the federal recovery funds as specified in bills passed by the General Assembly and signed by the Governor.

Under penalty of perjury, the undersigned official certifies that the authorized representative has read and understood the organization's obligations in the Assurances of Compliance and Civil Rights Requirements, that any information submitted in conjunction with this assurances document is accurate and complete, and that the organization is in compliance with the nondiscrimination requirements.

Subrecipient Name _____

Authorized Representative: _____

Title: _____

Signature: _____

AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS
TERMS AND CONDITIONS

1. Use of Funds.
 - a. Subrecipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 602(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.
 - b. Subrecipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Subrecipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
3. Reporting. Subrecipient agrees to comply with any reporting obligations established by Treasury as they relate to this award. Subrecipient also agrees to comply with any reporting requirements established by the Governor's Office and Office of the State Controller.
4. Maintenance of and Access to Records
 - a. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 602(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Subrecipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Subrecipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Subrecipient may use funds provided under this award to cover both direct and indirect costs. Subrecipient shall follow guidance on administrative costs issued by the Governor's Office and Office of the State Controller.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Subrecipient.
8. Conflicts of Interest. The State of Colorado understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy

is applicable to each activity funded under this award. Subrecipient and Contractors must disclose in writing to the Office of the State Controller or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112. The Office of the State Controller shall disclose such conflict to Treasury.

9. Compliance with Applicable Law and Regulations.

a. Subrecipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

b. Federal regulations applicable to this award include, without limitation, the following:

- i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (Agreements and Subcontractors described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - i. Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - ii. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - iii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - iv. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

- v. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
10. Remedial Actions. In the event of Subrecipient's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.
11. Hatch Act. Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or Agreements, and/or any other remedy available by law.

13. Publications. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number SLFRF0126 awarded to the State of Colorado by the U.S. Department of the Treasury.”

14. Debts Owed the Federal Government.

- a. Any funds paid to the Subrecipient (1) in excess of the amount to which the Subrecipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by the Subrecipient shall constitute a debt to the federal government.
- b. Any debts determined to be owed to the federal government must be paid promptly by Subrecipient. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.

- a. The United States expressly disclaims any and all responsibility or liability to Subrecipient or third persons for the actions of Subrecipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any Agreement, or Subcontractor under this award.
- b. The acceptance of this award by Subrecipient does not in any way establish an agency relationship between the United States and Subrecipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;

- iii. The Government Accountability Office;
- iv. A Treasury employee responsible for Agreement or grant oversight or management;
- v. An authorized official of the Department of Justice or other law enforcement agency;
- vi. A court or grand jury; or
- vii. A management official or other employee of Subrecipient, Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.

c. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient should encourage its Contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

1. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees, Subrecipients, and Contractorsto adopt and enforce policies that ban text messaging while driving, and Subrecipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the Subrecipient provides the assurances stated herein. The federal financial assistance may include federal grants, loans and Agreements to provide assistance to the Subrecipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass Agreements of guarantee or insurance, regulated programs, licenses, procurement Agreements by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Subrecipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Subrecipient's program(s) and activity(ies), so long as any portion of the Subrecipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Subrecipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.
3. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

4. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Subrecipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every Agreement or agreement subject to Title VI and its regulations between the Subrecipient and the Subrecipient's sub-grantees, Contractors, Subcontractors, successors, transferees, and assignees:

The sub-grantee, Contractor, Subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits Subrecipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement or agreement.

6. Subrecipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Subrecipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Subrecipient for the period during which it retains ownership or possession of the property.
7. Subrecipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Subrecipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Subrecipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Subrecipient also must inform the Department of the Treasury if Subrecipient has received no complaints under Title VI.
9. Subrecipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Subrecipient and the administrative agency that made the finding. If the Subrecipient settles a case or matter alleging such discrimination, the Subrecipient must provide documentation of the settlement. If Subrecipient has not been the subject of any court or administrative agency finding of

discrimination, please so state.

10. If the Subrecipient makes sub-awards to other agencies or other entities, the Subrecipient is responsible for ensuring that sub-Subrecipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub- Subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

EXHIBIT P

SLFRF SUBRECIPIENT QUARTERLY REPORT

1. SLFRF SUBRECIPIENT QUARTERLY REPORT WORKBOOK

- 1.1 The SLFRF Subrecipient Quarterly Report Workbook must be submitted to the State Agency within ten (10) days following each quarter ended September, December, March and June. The SLFRF Subrecipient Quarterly Report Workbook can be found at:

<https://osc.colorado.gov/american-rescue-plan-act> (see SLFRF Grant Agreement Templates tab)

EXHIBIT Q

SAMPLE SLFRF REPORTING MODIFICATION FORM

Local Agency:			Agreement No:	
Project Title:			Project No:	
Project Duration:	To:		From:	
State Agency:	CDOT			

This form serves as notification that there has been a change to the reporting requirements set forth in the original SLFRF Grant Agreement.

The following reporting requirements have been (add/ remove additional rows as necessary):

Updated Reporting Requirement (Add/Delete/Modify)	Project Number	Reporting Requirement

By signing this form, the Local Agency agrees to and acknowledges the changes to the reporting requirements set forth in the original SLFRF Grant Agreement. All other terms and conditions of the original SLFRF Grant Agreement, with any approved modifications, remain in full force and effect. Grantee shall submit this form to the State Agency within 10 business days of the date sent by that Agency.

Local Agency

Date

CDOT Program Manager

Date

EXHIBIT R
APPLICABLE FEDERAL AWARDS

FEDERAL AWARD(S) APPLICABLE TO THIS GRANT AWARD

Federal Awarding Office	US Department of the Treasury
Grant Program	Coronavirus State and Local Fiscal Recovery Funds
Assistance Listing Number	21.027
Federal Award Number	SLFRP0126
Federal Award Date *	May 18, 2021
Federal Award End Date	December 31, 2024
Federal Statutory Authority	Title VI of the Social Security Act, Section 602
Total Amount of Federal Award (this is <u>not</u> the amount of this grant agreement)	\$3,828,761,790

* Funds may not be available through the Federal Award End Date subject to the provisions in §2 and §5 below.

EXHIBIT S

PII Certification

STATE OF COLORADO

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

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

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

Signature: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT T

CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE

Checklist for required exhibits due to funding sources. Required Exhibits are dependent on the source of funding. This is a guide to assist in the incorporation and completion of Exhibits in relation to funding sources.

Exhibit	Funding only from FHWA	Funding only from ARPA	FHWA and ARPA Funding
EXHIBIT A, SCOPE OF WORK	✓	✓	✓
EXHIBIT B, SAMPLE OPTION LETTER	✓	✓	✓
EXHIBIT C, FUNDING PROVISIONS	✓	✓	✓
EXHIBIT D, LOCAL AGENCY RESOLUTION (IF APPLICABLE)	✓	✓	✓
EXHIBIT E, LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST	✓	✓	✓
EXHIBIT F, CERTIFICATION FOR FEDERAL-AID AGREEMENTS	✓		✓
EXHIBIT G, DISADVANTAGED BUSINESS ENTERPRISE	✓		✓
EXHIBIT H, LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES	✓		✓
EXHIBIT I, FEDERAL-AID AGREEMENT PROVISIONS FOR CONSTRUCTION AGREEMENTS	✓		✓
EXHIBIT J, ADDITIONAL FEDERAL REQUIREMENTS	✓		✓
EXHIBIT K, FFATA SUPPLEMENTAL FEDERAL PROVISIONS	✓	✓	✓
EXHIBIT L, SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT FORM	✓	✓	✓
EXHIBIT M, OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS	✓		✓

EXHIBIT N, FEDERAL TREASURY PROVISIONS		✓	✓
EXHIBIT O, AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS		✓	✓
EXHIBIT P, SLFRF SUBRECIPIENT QUARTERLY REPORT		✓	✓
EXHIBIT Q, SLFRF REPORTING MODIFICATION FORM		✓	✓
EXHIBIT R, APPLICABLE FEDERAL AWARDS		✓	✓
EXHIBIT S, PII CERTIFICATAION	✓	✓	✓
EXHIBIT T, CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE	✓	✓	✓

GRANT CERTIFICATION

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

Re: Safe Routes to School FY 2022, Grant for Safe Routes to Schools, Rock and Roll Safely

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

Name (print) Kelly Grisham

12/12/2023

Date

Title: Public Works Project Coordinator



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff 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 AND RATIFYING A SUPPLEMENTAL ENVIRONMENTAL PROJECT AGREEMENT AND APPROVING A MODIFICATION TO SAID AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR THE PURPOSE OF DEVELOPING A HOUSEHOLD HAZARDOUS WASTE PROGRAM; AUTHORIZING THE MAYOR TO EXECUTE THE MODIFICATION; ACCEPTING FUNDS IN THE AMOUNT OF \$378,880.00 FROM THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT; AND BUDGETING AND APPROPRIATING SAID FUNDS INTO PROJECT ACCOUNT NO. PL2302 - HOUSEHOLD HAZARDOUS WASTE PROGRAM

SUMMARY:

This proposed ordinance approves and ratifies a Supplemental Environmental Project (SEP) Agreement between the City of Pueblo and the Colorado Department of Public Health and Environment (CDPHE), approves a modification to said Agreement, and authorizes the Mayor to execute the modification. The Supplemental Environmental Project Agreement provides \$378,880 for the establishment of a Household Hazardous Waste collection program, which will be accepted and budgeted and appropriated into Project Account No. PL2302 - Household Hazardous Waste Program.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The City has entered into a SEP Agreement which will provide funding for the establishment of a Household Hazardous Waste program. This project will provide Pueblo residents with a public facility to safely and cost-effectively dispose of items

such as household cleaners, pesticides, fertilizers, automotive fluids, fluorescent light bulbs, paints, batteries, and other common household waste items. The program would divert these hazardous wastes from local landfills and offer an easy alternative to illegal dumping that has become pervasive in this area. Funds provided under the program will be used to procure and install a prefabricated household hazardous waste storage building at the Pueblo RecycleWorks facility on Stockyard Road; fund the disposal of collected Household Hazardous Waste items; procure materials, supplies, and equipment necessary to operate the program; and provide necessary safety training for employees.

FINANCIAL IMPLICATIONS:

The City will accept funds from CDPHE in the amount of \$388,870.00 and budget and appropriate said funds into Project Account No. PL2302 - Household Hazardous Waste Program.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Failing to approve this Ordinance will preclude the City of Pueblo from accepting the funds from CDPHE and prevent the establishment of the Household Hazardous Waste program.

RECOMMENDATION:

Recommend approval of this Ordinance.

ATTACHMENTS:

1. Pueblo_Bechtell_HHW_SEPAgreement
2. DRAFT MOD - Pueblo_Bechtell_HHW_SEPMod#1 (v2)

ORDINANCE NO.

AN ORDINANCE APPROVING AND RATIFYING A SUPPLEMENTAL ENVIRONMENTAL PROJECT AGREEMENT AND APPROVING A MODIFICATION TO SAID AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR THE PURPOSE OF DEVELOPING A HOUSEHOLD HAZARDOUS WASTE PROGRAM; AUTHORIZING THE MAYOR TO EXECUTE THE MODIFICATION; ACCEPTING FUNDS IN THE AMOUNT OF \$378,880.00 FROM THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT; AND BUDGETING AND APPROPRIATING SAID FUNDS INTO PROJECT ACCOUNT NO. PL2302 - HOUSEHOLD HAZARDOUS WASTE PROGRAM

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

SECTION 1.

The Supplemental Environmental Project (SEP) Agreement between the City of Pueblo, a Municipal Corporation, and the Colorado Department of Public Health and Environment, relating to the provision of funds for the establishment of a Household Hazardous Waste collection program, a copy of which is attached hereto, is hereby ratified and approved subject to approval of the Modification to the SEP Agreement as set forth in Section 2 of this Ordinance.

SECTION 2.

The Modification to the SEP Agreement between the City of Pueblo, a Colorado Municipal Corporation, and the Colorado Department of Public Health and Environment, relating to the provision of funds for the establishment of a Household Hazardous Waste collection program, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

The Mayor is authorized to execute and deliver the modification to the SEP Agreement in the name of the City.

SECTION 4.

Project No. PL2302 - Household Hazardous Waste Program is hereby established and funds received from the Colorado Department of Public Health and Environment in the amount of \$378,880.00 are hereby accepted and budgeted and appropriated into said project account.

SECTION 5.

The officers of the City are authorized to perform any and all acts consistent with this Ordinance and IGA to implement the policies and procedures described herein. Furthermore, all actions previously taken by officers and staff of the City consistent with the agreement are hereby ratified.

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



Third Party Supplemental Environmental Project (SEP) Agreement

Third Party Liable (Revised 9/21/2022)

Document is completed by the third party SEP administrator.

The third party SEP administrator, identified below, submits the following SEP agreement proposal to the Colorado Department of Public Health and Environment (the department) for consideration. If the application is approved, it shall be signed by appropriate representatives of the department. If the approved document is then signed by the applicant, it shall serve as the SEP agreement for the project(s) at issue.

Enforcement action information

Regulated entity name: The Pueblo Chemical Agent Destruction Pilot Plant (PCAPP)

Enforcement case no.: 22-05-10-01 & 22-05-10-02

Third party SEP administrator

Andrew Hayes, PE
City of Pueblo
Director of Public Works
211 E D St.
Pueblo, CO 81003
719-553-2295/2267
ahayes@pueblo.us

Type of organization

Government

Department SEP coordinator

Elizabeth Scherer
720-515-0236
Elizabeth.scherer@state.co.us

Geographic area served

City of Pueblo; Pueblo County

SEP category

Pollution Prevention

Project title

Pueblo Household Hazardous Waste Year-Round Collection Facility

Project summary

This SEP will help develop a Household Hazardous Waste (HHW) program to include storage, training, equipment and safe transport services for all of Pueblo County. The facility would operate year-round for the benefit of residents throughout the County, allowing Pueblo to expand its waste diversion services to citizens. The HHW collection center will be located at the existing RecycleWorks facility at 1595 Stockyard Road, Pueblo, CO.

Project description

Problem Statement: Residents within Pueblo County have no options for disposing of household hazardous waste items. When “improperly” disposed of, these items end up in local landfills. When improperly disposed of these wastes present serious risks to the environment and negatively impact the health and safety of residents.

Project goals and objectives: This project will provide Pueblo residents with a public facility to safely and cost-effectively dispose of items such as household cleaners, pesticides, fertilizers, automotive fluids, fluorescent light bulbs, paints, batteries, and other common household waste items. The program would divert these hazardous wastes from local landfills and offer an easy alternative to illegal dumping that has become pervasive in this area.

Project tasks and activities and construction scope: RecycleWorks is an already established recycling center that will provide expanded services to include acceptance of household hazardous waste with this funding. The proposed facility would be a prefabricated 10 x 40 building specifically built to hold household hazardous materials that would be equipped with fire detection/alarm/suppression systems. Within the existing footprint of RecycleWorks the plans would need to be redrawn to accommodate a new layout to support a permanent Concrete slab that could house the prefabricated building. Minimal exterior site improvements would be required as the RecycleWorks site is already surrounded by an 8-foot chain-link fence with two vehicle access gates and a paved parking area. The city currently has one full-time and two part-time staff members that operate and maintain the RecycleWorks operation. This SEP will fund and train one other part-time position to operate the HHW work. It is envisioned that the City would contract with a hazardous waste disposal company to collect, transport, and dispose of all waste streams collected under the HHW program in a way that ensures the facility continues to operate in compliance with state laws and regulations related to municipal household hazardous waste collection operations. Required changes to the full- and part-time staffing of the entire operation (RecycleWorks and HHW collection) would be evaluated to ensure sufficient resources are allocated and personnel assigned to facilitate sustained operation of the facility.

Need for the project in the community: There is no current option for residents seeking to dispose of household hazardous waste items other than through normal residential solid waste collections. There are also limited recycling options available within the city and the combined benefit of having both services available at one location is a critical step forward in improving and protecting the environment in Pueblo. The city has long sought opportunities to be able to expand its waste diversion programs to include the establishment of a HHW collection program. This project would allow that vision to become a reality and Pueblo citizens will reap the benefits for generations to come.

The Pueblo Department of Public Health and Environment (PDPHE) would assist with the integration of solid waste diversion programs for both the City of Pueblo and Pueblo County, provide education and outreach support for the expanded service offerings, and work with the city during the permitting, design, and implementation phase of the HHW project. PDPHE will also be a partner in sustaining the continued operation of the HHW program. The City of Pueblo will provide the property and daily labor to run the HHW collection.

The nearest household hazardous waste disposal/collection facility is in El Paso County, approximately 45 minutes north of the City of Pueblo, but the facility is only open to El Paso County residents. There are a few commercial hazardous waste disposal facilities in the area, but many do not accept residential waste streams and those that do are not generally cost-effective options for residents.

Since the SEP would be used to fund the permanent setting for HHW by using a prefabricated building, the construction effort would be limited because demolition and construction cost will not be required.

Project work plan

Please specify project activities or deliverables below, as well as completion dates associated with project milestones and reports. Status reports are required biannually for projects 1 year in duration or longer. For projects under one year, a status report is required approximately half way through the project. Add rows as needed.

Activities / Deliverables	Staff responsible	Due date
SEP Payment from Regulated Entity to Third Party SEP Administrator	Todd Ailes - Project Manager Bechtel National, Inc.	Within 30 days of the effective date of the Consent Order
Proposed implementation start date	City of Pueblo	March 1, 2023
Hire and train 0.5 FTE staff	City of Pueblo	Ongoing through 12/31/2025
Start bid process for HHW transportation vendor	City of Pueblo	March 1, 2023
Biannual status report due	City of Pueblo	May 1, 2023

Construct concrete slab (provide photos)	City of Pueblo	June 30, 2023
Procure Safety PPE, storage totes, etc.	City of Pueblo	June 30, 2023
Procure and install HHW Storage Building (Provide photos)	City of Pueblo	July 31, 2023
Award Vendor for HHW transportation	City of Pueblo	July 31, 2023
HHW Collection Start	City of Pueblo	August 31, 2023
Biannual status report due	City of Pueblo	November 1, 2023
Biannual status report due	City of Pueblo	May 1, 2024
Biannual status report due	City of Pueblo	November 1, 2024
Biannual status report due	City of Pueblo	May 1, 2025
Project completion date	City of Pueblo	December 31, 2025
SEP completion report due	City of Pueblo	December 31, 2025

Expected environmental and/or public health measures/results

When completed the updated RecycleWorks facility will integrate HHW collections services for County residents as well as City residents. This new addition will allow for items such as household cleaners, pesticides, fertilizers, automotive fluids, fluorescent light bulbs, paints,

batteries, and other common household waste items to be disposed of safely. When these items are improperly disposed of, they present serious risks to the environment and negatively impact the health and safety of residents. City and County residents currently have no reasonable options for disposing of these items other than through residential waste disposal methods which ultimately end up in the local landfill. PDPHE will track and report all HHW that is diverted by this new program.

Project budget

Complete the summary table below and itemize expenses according to the budget categories provided. Add lines as necessary. Documentation of all expenditures is required as part of the completion report.

Category	Description	SEP funds	Matching funds (if applicable)	Total cost
Personnel - salaries, wages (including rates and # of hrs.)	.5 FTE Staffing for HHW collection for normal operating hours. 1040 hours x 3yrs @ \$17 per hr.	\$53,040.00		\$53,040.00
	40 HAZWOPER training	\$500.00		\$500.00
Materials and supplies	PPE Gloves, Boots, Eye Protection, P-100 Face mask, Chemical Spill Kit,	\$1,000.00		\$1,000.00
	Tote boxes for chemical separation	\$1,000.00		\$1,000.00
Equipment	Prefabricated 10x40 Chemical storage building (See Attachments B.1 and B.2)	\$88,400.00		\$88,400.00
Contractors / subcontractors	HHW vendor for pick up and disposal x 3yr contract	\$205,000.00		\$205,000.00
	Construction of 10x40 concrete pad for prefabricated building.	\$11,500.00		\$11,500.00
	Fire Alarm Panel Installation and System Commissioning	\$9,000.00		\$9,000.00
Other Direct Costs	Transportation of prefabricated building from California	\$7,680.00		\$7,680.00
	Large forklift rental to placement of prefabricated building	\$1,760.00		\$1,760.00
Totals:		\$378,880.00		\$378,880.00

Please note: Any categorical changes exceeding 10% of the total budget require prior written approval from CDPHE through a SEP Modification.

Budget discussion

The estimated project budget of \$378,880 would provide set up and implementation for the first three years with the SEP. The City of Pueblo will provide additional funding and support required to continue program after the 3-year contract with the transportation hauler and staffing. PDPHE will continue to promote and educate all citizens of Pueblo County about proper HHW disposal.

Other relevant information

If the SEP is awarded to the City of Pueblo, The Pueblo Department of Public Health and Environment will transfer all funds to the City of Pueblo for the administration of the proposed project (Attachment C). SEP funds will be used to obtain the program resources and operate the household hazardous waste collection program as specified in the “Project Budget” section above. See Attachment A (City Letter) for additional information.

Photos or maps related to the project:



Reporting requirements

Biannual status reports

The SEP administrator will submit a biannual project status report to the department’s SEP coordinator. Status reports will include, at a minimum, the following information and be submitted using the department’s status report form:

- A description of activities completed to date;
- A budget summary table listing funds expended to date by budget category; and
- A discussion of any anticipated changes to the project scope or timeline.

SEP completion report

The SEP administrator will submit a SEP completion report to the department's SEP coordinator within 30 days of project completion and contain at a minimum:

- A detailed description of the project as implemented;
- A summary table identifying project deliverables and tasks along with the associated completion date;
- A description of any operating problems encountered and the solutions thereto;
- A full expense accounting including itemized costs, documented by copies of purchase orders, contracts, receipts or canceled checks;
- Certification and demonstration that the SEP has been fully implemented pursuant to the provisions of the settlement agreement and this SEP agreement;
- A description of the environmental and public health benefits resulting from implementation of the SEP along with **quantification** of the outcomes and benefits;

Additional information will include:

- Examples of brochures, educational or outreach materials developed or produced as part of the SEP; and
- Photographs documenting the project.

Third party SEP administrator conditions and requirements

Only qualified tax-exempt 501(c)(3) nonprofits or governmental organizations are eligible to serve as the SEP administrator. The SEP administrator agrees to the following SEP conditions and requirements:

- I. Maintain the SEP funds paid by the regulated entity in an independent SEP account and draw funds from the account as-needed for the purposes outlined in this SEP agreement.
- II. Communicate issues and concerns related to the SEP promptly to the department SEP coordinator.
- III. If the SEP administrator elects to publicize the name of a violator in connection with the SEP either orally or in writing, the SEP administrator must also include the following statement: *"This project was undertaken in connection with the settlement of an enforcement action taken by the Colorado Department of Public Health and Environment for violations of environmental laws and regulations"*.
- IV. Complete the SEP as described in this SEP agreement
 - a. Any changes to the approved project scope or timeline must receive prior written approval from the department.
 - b. Budget reallocations of up to 10% of the total SEP payment amount may be made without prior authorization. Budget reallocations of over 10% must first receive written prior authorization from the department.
- V. Complete the SEP within the time frame(s) indicated in this SEP agreement. If the SEP administrator is unable to meet the SEP agreement time frame(s) for the completion

of the SEP, the SEP administrator may request a deadline extension in writing from the department no later than 30 days prior to the deadline.

VI. In any of the following situations, all funds remaining in the SEP account shall be released to the department within 30 days of the department's written request:

- a. The SEP administrator fails to complete the project or submit the SEP completion report;
- b. The project has been fully implemented and there are still funds remaining in the SEP account; or
- c. The department terminates the SEP for failure of the third party SEP administrator to adhere to this SEP agreement.

VII. Make available, at the department's request, all records pertaining to the SEP.

- a. The SEP administrator shall maintain a complete file of all records, documents, communications, and other materials that pertain to the operation of the SEP or the delivery of services under the SEP agreement. Such files shall be sufficient to properly reflect all direct and indirect costs of labor, materials, equipment, supplies and services.
- b. The SEP administrator authorizes the department to perform audits and/or inspections of its SEP records, at any reasonable time during the implementation of the project and for a period of one (1) year following the completion of the project.

Failure to adhere to any of the above conditions and requirements may result in the termination of the SEP and/or no further SEP referrals.

This section to be completed in the event of a SEP agreement only

Certification statement

I, Andrew E. Hayes, P.E., Director of Public Works, certify on behalf of City of Pueblo, that City of Pueblo is not required or has not previously committed to perform this project and agrees to the SEP conditions and requirements detailed in this document.



2023.01.30 07:29:10 -07'00'

Signed and dated

Andrew E. Hayes, P.E., Director of Public Works, City of Pueblo

Department use only

This SEP has been reviewed and approved by the Colorado Department of Public Health and Environment.

Kevin Mackey

Digitally signed by Kevin Mackey
Date: 2023.01.27 12:02:13 -07'00'

Signed and dated

Kevin Mackey, Hazardous Waste Permitting Unit Leader
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and Environment

Elizabeth A. Scherer

Digitally signed by Elizabeth A. Scherer
Date: 2023.01.27 08:57:01 -07'00'

Signed and dated

Elizabeth Scherer, Supplemental Environmental Projects Coordinator
Division of Environmental Health & Sustainability
Colorado Department of Public Health and Environment



Third-Party Liable Supplemental Environmental Project (SEP) Modification Request

Third Party Liable (Revised 6/16/2023)

Document is completed by the third-party SEP administrator.

The third-party SEP administrator submits the following SEP modification request to the Colorado Department of Public Health and Environment (the department) for consideration. If the modification is approved, it shall be signed by appropriate representatives of both the SEP administrator and the department and shall serve to modify the existing SEP agreement for the project at issue. All terms of the existing SEP agreement, not directly addressed through the amendment(s) below, remain in full force and effect.

Enforcement action information

Regulated entity name: The Pueblo Chemical Agent Destruction Pilot Plant (PCAPP)

Enforcement case no.: 22-05-10-01 & 22-05-10-02

Third party SEP administrator

Andrew Hayes, Director of Public Works

City of Pueblo

211 E. D Street

Pueblo, CO 81003

719-553-2295

ahayes@pueblo.us

Project title

Pueblo Household Hazardous Waste Year-Round Collection Facility

Basis for modification request

The City of Pueblo requests to modify the “Budget Discussion” section of the current SEP Agreement dated January 30, 2023 as indicated below. The modification is requested to add clarifying language such that the City cannot commit to a debt or multi-fiscal year obligation of future appropriations, and that this will not constitute a default or breach of the agreement. The modification also adjusts the due dates for project benchmarks, but does not extend the overall project completion date beyond the original deadline of 12/31/2025.

SEP agreement sections as modified

Project work plan

Please specify project activities or deliverables below, as well as completion dates associated with project milestones and reports. Status reports are required biannually for projects 1 year

in duration or longer. For projects under one year, a status report is required approximately half way through the project. Add rows as needed.

Activities / Deliverables	Staff responsible	Due date
SEP Payment from Regulated Entity to Third Party SEP Administrator	Todd Ailes - Project Manager Bechtel National, Inc.	Within 30 days of the effective date of the Consent Order
Proposed implementation start date	City of Pueblo	March 1, 2023
Hire and train 0.5 FTE staff	City of Pueblo	Ongoing through 12/31/2025
Start bid process for HHW transportation vendor	City of Pueblo	March 1, 2023 February 1, 2024
Biannual status report due	City of Pueblo	May 1, 2023 May 1, 2024
Construct concrete slab (provide photos)	City of Pueblo	June 30, 2023 March 1, 2024
Award Vendor for HHW transportation	City of Pueblo	April 1, 2024
Procure Safety PPE, storage totes, etc.	City of Pueblo	June 30, 2023 May 1, 2024
Procure and install HHW Storage Building (Provide photos)	City of Pueblo	July 31, 2023 May 1, 2024
Award Vendor for HHW transportation	City of Pueblo	July 31, 2023
HHW Collection Start	City of Pueblo	August 31, 2023 June 1, 2024

Biannual status report due	City of Pueblo	November 1, 2023 November 1, 2024
Biannual status report due	City of Pueblo	May 1, 2024 May 1, 2025
Biannual status report due	City of Pueblo	November 1, 2024 November 1, 2025
Biannual status report due	City of Pueblo	May 1, 2025
Project completion date	City of Pueblo	December 31, 2025
SEP completion report due	City of Pueblo	December 31, 2025

Budget Discussion

The estimated project budget of \$378,880 would provide set up and implementation for the first three years with the SEP. PDPHE will continue to promote and educate all citizens of Pueblo County about proper HHW disposal. **The City of Pueblo will provide additional funding and support required to continue program after the 3-year contract with the transportation hauler and staffing; provided, however, it is expressly recognized that any such additional funding shall not constitute, nor 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 Colorado Constitution or any other constitutional, statutory or charter debt limitation. In the event the budget or other means of appropriations for any such year fails to provide any such additional funding, such failure shall not constitute a default or breach of this Agreement by the City.**

This section to be completed in the event of an approved SEP modification only.

I, Andrew Hayes, Director of Public Works, certify on the behalf of the City of Pueblo that the City of Pueblo approved the above modifications to the SEP Agreement.

Signed and dated
Nicholas A. Gradisar, Mayor
City of Pueblo

Department use only

This SEP modification has been reviewed and approved by the Colorado Department of Public Health and Environment.

Signed and dated

Amy Williams, Hazardous Waste Permitting Unit Leader
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and Environment

Elizabeth Scherer, Supplemental Environmental Projects Coordinator,
Division of Environmental Health & Sustainability
Colorado Department of Public Health and Environment



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Scott Hobson, Acting Director Planning and Community Development

SUBJECT: AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE APPROXIMATELY 71.75 -ACRES IF A-4, AGRICULTURAL FOUR TO R-1, SINGLE FAMILY RESIDENTIAL (53.07-ACRES) AND R-2 SINGLE FAMILY RESIDENTIAL (18.05-ACRES) LOCATED IN THE WESTERN PORTION OF THE VENTANA MASTER PLAN, 2002, AND WITHIN THE PROPOSED VENTANA ESTATES OVERALL DEVELOPMENT PLAN AREA

SUMMARY:

The applicant is requesting to rezone the western portion of the 2002 Ventana Annexation area from A-4, Agricultural Four to R-1, Single Family Residential and R-2, Single Family Residential. If approved, the southern 53.7-acres of land, will be rezoned R-1, and the northern 18.05 acres will be rezoned to R-2.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The area proposed to be rezoned was annexed into the City in 2002. Following annexation, the area west of the arroyo was zoned A-4, Agricultural Four, and the eastern portion was zoned A-1, Agricultural One. In 2003, the eastern portion of the annexation site was rezoned to R-1, Single Family Residential, R-2, Single Family Residential, and B-2, Subregional Business District and subdivided into single-family residential lots, one large lot for single-family attached, and one commercial lot. In 2008, the southern portion of the eastern Ventana development area was rezoned from R-2 and B-2 to R-2U and re-subdivided to facilitate development of single-family attached homes, all zoning provisions for commercial uses were removed. The applicant is requesting to rezone the Ventana Annexation area, west of the arroyo, to R-2 and R-1, Single Family Residential to facilitate townhome and single-family development. The applicant is proposing to construct a maximum of 170 single-family

homes on the 53.7-acres proposed to be zoned R-1. The proposed R-2 area is 18.05-acres and the developer proposes to construct a maximum of 96 townhomes. The arroyo and a small portion of the area east of the arroyo will maintain the existing A-4 Zone District. At the time of subdivision, dedicated parks, within the development, will most likely be rezoned to S-1, Government Use District, the arroyo and open space east of the arroyo may be rezoned also. The proposed gross residential density based on the area being rezoned to R-1 and R-2 is 3.7 units per acre, which is within the density range of two to five dwelling units per acre as prescribed by the Suburban Land Use Designation of the Pueblo Regional Comprehensive Plan, 2022. The gross density is calculated by dividing the total number of proposed dwelling units by the total acreage included in the rezone request (266 dwelling units/71.75-acres).

In both the 2002 and the proposed Ventana Master Plans, all residential traffic from the western portion of the Ventana development will be routed through the existing Ventana Development. Traffic traveling to the northeast will navigate through Ventana Filing No. 1 to reach the full movement Bandera Parkway and Highway 78 Intersection. Since the townhomes are proposed to be constructed north of the future Sienna Drive, it is assumed that most of the townhome traffic will head east on Sienna Drive to reach Bandera Parkway. Sienna Drive is classified as a Mixed-Use Collector roadway and is designed to accommodate a maximum 10,000 vehicle trips per day. All existing residences constructed adjacent to the south side of Sienna Drive front Terracina Place and no driveway access for these homes is allowed from Sienna Drive. Sienna Drive is a Mixed-Use Collector roadway and is intended to collect traffic from nearby local roadways and provide a delineation between the townhomes, R-2 Zone District, and single-family residences, R-1 Zone District.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their December 13, 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.

A Public Notice poster was placed on the subject property 15 days prior to the Public Hearing.

ALTERNATIVES:

If City Council does not approve this Ordinance the property will not be zoned in accordance with the Pueblo Municipal Code.

Upon request of City Council, the Ordinance could be returned to the Planning and Zoning Commission for consideration of proposed modifications.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Z-23-03 Attachments

ORDINANCE NO.

AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE APPROXIMATELY 71.75 -ACRES IF A-4, AGRICULTURAL FOUR TO R-1, SINGLE FAMILY RESIDENTIAL (53.07-ACRES) AND R-2 SINGLE FAMILY RESIDENTIAL (18.05-ACRES) LOCATED IN THE WESTERN PORTION OF THE VENTANA MASTER PLAN, 2002, AND WITHIN THE PROPOSED VENTANA ESTATES OVERALL DEVELOPMENT PLAN AREA

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 A-4, Agricultural Four Zone District to R-1, Single Family Residential and R-2, Single Family Residential Zone Districts:

R-1, Single Family Residential Zone District:

A parcel of land located in the Northeast one-quarter of Section 17, Township 21 South, Range 65 West of the 6th Principal Meridian, in the County of Pueblo and State of Colorado, and being more particularly described as follows:

Considering the East line of the Northeast one-quarter of Section 17 to bear N. 00°04'53" W., and all bearings contained herein being relative thereto.

Commencing at the north quarter corner of said Section 17; thence S 00°10'47" E a distance of 764.22 feet along the west line of the Northeast one-quarter of said Section 17 to the TRUE Point of Beginning;

thence S 89°52'10" E a distance of 157.72 feet;

thence along the arc of a tangent curve to the left whose radius is 500.00 feet, a distance of 315.54 feet, delta of 36°09'29";

thence N58°14'06" E a distance of 104.83 feet;

thence along the arc of a tangent curve to the right whose radius is 500.00 feet, a distance of 318.03 feet, delta of 36°26'36";

thence S 89°35'03" E a distance of 115.28 feet;

thence along the arc of a tangent curve to the left whose radius is 500.00 feet, a distance of 356.80 feet, delta of 40°53'11"; To a point on a line being the 25-feet offset west of the western Zone A boundary for the Goodnight Arroyo as delineated on the FEMA NFIP Flood Insurance Rate Map (version 2.3.3.2; map 08101C0706D; August 15, 2019), said line subject to revision based on updated Zone A delineation; Thence along said western offset boundary the following Twenty-four (24) courses;

1. thence S 15°40'54" W a distance of 56.70 feet;
2. thence S 07°14'05" W a distance of 93.04 feet;
3. thence S 54°26'59" W a distance of 54.65 feet;
4. thence S 37°38'21" E a distance of 33.55 feet;
5. thence S 48°31'45" W a distance of 35.86 feet;
6. thence S 03°36'35" W a distance of 121.21 feet;
7. thence S 50°12'38" E a distance of 31.48 feet;
8. thence S 16°50'48" W a distance of 151.40 feet;
9. thence S 19°51'17" W a distance of 71.78 feet;
10. thence S 09°41'56" W a distance of 205.32 feet;
11. thence S 42°46'48" W a distance of 30.28 feet;
12. thence S 08°31'59" W a distance of 87.26 feet;
13. thence S 16°32'17" E a distance of 122.42 feet;

14. thence S 38°32'16" E a distance of 17.80 feet;
15. thence S 24°45'50" W a distance of 98.67 feet;
16. thence S 13°22'39" E a distance of 269.57 feet;
17. thence S 16°07'23" W a distance of 134.09 feet;
18. thence S 07°35'14" E a distance of 145.47 feet;
19. thence S 42°00'50" E a distance of 85.20 feet;
20. thence S 07°34'15" W a distance of 127.48 feet;
21. thence S 41°12'36" W a distance of 117.45 feet;
22. thence S 14°03'51" W a distance of 198.51 feet;
23. thence S 06°13'49" E a distance of 73.25 feet;
24. thence S 04°42'42" W a distance of 95.97 feet to a point on the south line of the Northeast one-quarter of said Section 17;

thence N 89°34'45" W a distance of 1043.17 feet along said south line to the Center Corner of said Section 17; thence N 00°10'47" W a distance of 1,916.09 feet along the west line of the Northeast one-quarter of said Section 17 to the point of beginning.

Said parcel contains 53.709 acres more or less.

R-2, Single Family Residential Zone District:

A parcel of land located in the Northeast one-quarter of Section 17, Township 21 South, Range 65 West of the 6th Principal Meridian, in the County of Pueblo and State of Colorado, and being more particularly described as follows:

Considering the East line of the Northeast one-quarter of Section 17 to bear N. 00°04'53" W., and all bearings contained herein being relative thereto.

Beginning at the north quarter corner of said Section 17; thence S 89°39'25" E a distance of 1,377.24 feet; along the north line of said Section 17; To a point on a line being the 25-foot offset west of the western Zone A boundary for the Goodnight Arroyo as delineated on the FEMA NFIP Flood Insurance Rate Map (version 2.3.3.2; map 08101C0706D; August 15, 2019) said line subject to revision based on updated Zone A delineation; Thence along said western offset boundary the following Five (5) courses;

1. thence S 00°35'39" E a distance of 42.66 feet
2. thence S 23°45'51" W a distance of 48.47 feet;
3. thence S 61°44'34" W a distance of 59.79 feet;
4. thence S 09°20'32" E a distance of 100.03 feet;
5. thence S 11°31'03" W a distance of 180.73 feet;

thence along the arc of a non-tangent curve to the right whose radius is 500.00 feet, a distance of 356.80 feet, delta of 40°53'11", chord bearing S 69°58'21" W a distance of 349.28 feet;

thence S 89°35'03" E a distance of 115.28 feet;

thence along the arc of a tangent curve to the left whose radius is 500.00 feet, a distance of 318.03 feet, delta of 36°26'36";

thence N58°14'06" E a distance of 104.83 feet;

thence along the arc of a tangent curve to the right whose radius is 500.00 feet, a distance of 315.54 feet, delta of 36°09'29";

thence S 89°52'10" E a distance of 157.72 feet to a point along the west line of the Northeast one-quarter of said Section 17;

thence N 00°10'47" W a distance of 764.22 feet along the west line of the Northeast one-quarter of said Section 17 to the point of beginning.

Said parcel contains 18.054-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 _____.

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

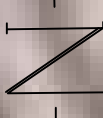
ATTEST

City Clerk

RE-ZONING EXHIBIT

A PARCEL OF LAND LOCATED
IN THE NORTHEAST ONE-QUARTER OF SECTION 17,
TOWNSHIP 21 SOUTH, RANGE 65 WEST OF THE
6"th PRINCIPAL MERIDIAN, IN THE COUNTY OF PUEBLO, CO 81005.

CO. STATE GRID NORTH



LEGEND:

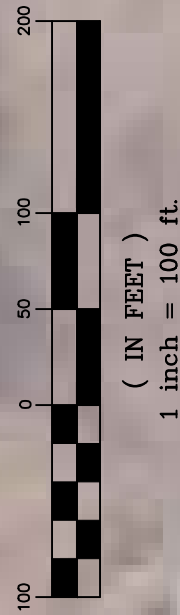
Description	Area (Acres)	Remarks
AREA TO BE RE-ZONE	70.897	FROM A-4 TO R-2
FLOODPLAIN, SW MGMT, OPEN SPACE, PARKS/TRAILS	20.558	Will be deeded to the city at the time of Subdivision
TOTAL AREA	91.455	

FEMA MAPPING
FLOODWAY LINES
25' EROSION BUFFER
ZONE

FEMA MAPPING
FLOODWAY LINES
25' EROSION BUFFER
ZONE

AREA TO BE REZONED
FROM A-4 TO R-2(70.897 Ac)

GRAPHIC SCALE



RE-ZONING EXHIBIT

THE VENTANA ESTARES SUBDIVISION (Ventana Filling#2)

CITY OF PUEBLO, PUEBLO CO 81005

OWNER:- VESTOGE PUEBLO CO LLC

SCALE: 1"= 100'

DATE: Jun. 023

C.L.: 2

BELL CONSULTING, LLC

P.O. Box 8
Rifle, Colorado 81650
Phone: 970/948-3153
nb@bellconsult.net

VE
Vestoge Engineers

44081 Pipeline Plaza,
Ashburn VA 20147
Tel. (571) 278-6992

PLAN DATE

07/03/03
07/03/03
08/07/03
08/25/03
09/01/03

No.

DESCRIPTION

REVISIONS

DATE

SHEET

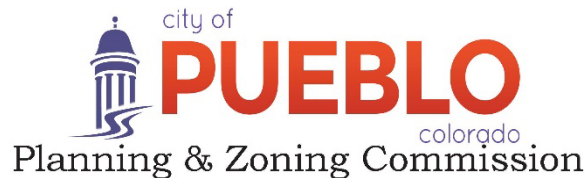
OF

FILE No.

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, September 13, 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, Sarah Martinez, Lisa Bailey, Christopher Pasternak.

Commissioners Absent: Alexandra Aznar

Staff Members Present: Paul Willumstad, Attorney; David Wyatt, Assistant City Attorney, Scott Hobson, Acting Director of Planning and Community Development, Beritt Odom, Principal Planner; Mikaylin Hackley, Planner, Joe Martellaro, Associate Engineer, Charles Roy, Deputy Director of Public Works, Alex Romero, Finance Director, Laura Solano, Chief of Staff, and George Hypolite, City Attorney.

Staff Members Absent: None

APPROVAL OF THE AGENDA: Bailey moved to continue Z-23-06 to the October 11, 2023, meeting and approve the September 13, 2023, agenda as amended, seconded by, Avalos.

Motion Passed: 6-0

Regular Agenda:

3. Z-23-03 *Continued from August 9, 2023*, Ventana Filing 2 Rezoning: Approximately 74.21 acres, generally located west of Ventana, Filing No. 1 Subdivision and north of State Highway 78, to be rezoned from City of Pueblo A-4 to R-2, Single-Family Residential. Staff report by Beritt Ododm, Principal Planner.

Public Hearing: Applicant, Nathan Bell remained sworn in and spoke in favor of the application. Speaking in opposition and remained sworn in were Ryan McCafferty, Jan Coffee, Tony Roberts, Dedra McDade Celeste Oreskovich, Larry L. Hagler, Dave Torline. Exhibit #1 was provided by Jan Coffee.

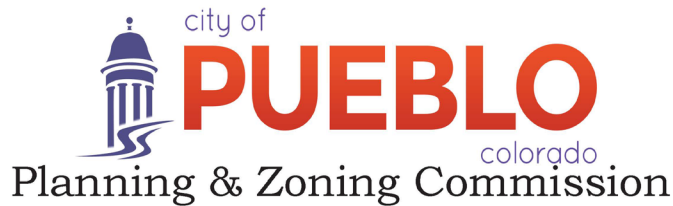
Commission Action: Bailey moved to recommend the application with one (1) staff condition, seconded by Spinuzzi.

Motion Passed 5-1

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative



Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

Z-23-03

TO: City of Pueblo, Planning and Zoning Commission

FROM: Beritt Odom, Principal Planner

THROUGH: Scott Hobson, Acting Director of Planning and Community Development

DATE: September 13, 2023

SUBJECT: Rezone from A-4, Agricultural Four to R-2, Single-Family Residential.

APPLICANT: Ramesh Kalwala, Vestoge, Pueblo CO LLC

PROPERTY OWNER: Ramesh Kalwala, Vestoge, Pueblo CO LLC

LOCATION: 74.21 acres, generally located west of Ventana, Subdivision, Filing No. 1 and north of State Highway 78

CONCURRENT REQUESTS: ODP-23-01 Ventana Estates Overall Development Plan

REQUEST:

The applicant is requesting to rezone 70.89-acres of land, located in the western portion of the Ventana Master Plan, 2002, and within the proposed Ventana Estates Overall Development Plan from A-4, Agricultural Four to R-2, Single Family Residential.

BACKGROUND AND ANALYSIS:

The area proposed to be rezoned was annexed into the City in 2002. Following annexation, the area west of the arroyo that bisects the property was zoned A-4, Agricultural Four, and the eastern portion was zoned A-1, Agricultural One. The eastern portion of the annexation site was rezoned to R-1, Single Family Residential, R-2, Single Family Residential, and B-2, Subregional Business District in 2003 and subdivided into single-family residential lots. In 2008, the southern portion of the eastern Ventana development was rezoned to R-2U and re-subdivided to facilitate development of single-family attached homes.

The applicant is requesting to amend the western portion of the 2002 Ventana Master Plan and rezone the area west of the arroyo to R-2, Single Family Residential to facilitate single-family and townhome development within a more traditional grid subdivision that includes five cul-de-sacs as opposed to the previous curvilinear streets and roundabouts. The applicant is proposing to construct 165 single-family homes, 95 townhomes and 15.168 acres of parks/open space. Total residential units will be 260, which is a proposed gross residential density is 3.5 units per acre.

The 2002 Ventana Master Plan contemplated approximately 285 dwelling units within the western portion of the development. In both the 2002 and the proposed Ventana Master Plan, all residential traffic from the western portion of the Ventana development is intended to be routed through the existing Ventana Development (Ventana

Subdivision, Filing No. 1). Traffic traveling to the northeast would use Siena Drive and link to Bandera Boulevard. Traffic heading southwest will utilize the Ventana Circle and State Hwy 78 Intersection. The proposed Ventana Development has approximately 25 fewer dwelling units than the original planned development, therefore traffic impacts should not be greater than what was originally planned and approved in 2002.

LAND USE AND PLANNING COMMENTS

CHARACTER AND COMPATIBILITY

Site Character:	The area proposed to be rezoned is vacant undeveloped land consisting of native prairie grasses, located west of Ventana Subdivision, Filing No. 1 and north of State Highway 78.		
R-2 District Regulations:	Lot Area		
	Single-Family: 5,000 sq. ft.		
	Minimum		
	Lot Width:	50-feet	
Neighborhood Compatibility:	Max Building		
	Height:	35-ft.	
	North	Pueblo County A-4, Unimproved land.	
	East	R-1 and R-2U, Single family residences and single family attached residences.	
Comprehensive Plan:	South	Pueblo County A-4, Residence and salvage items	
	West	Pueblo County A-4, Unimproved land	
	The rezoning area 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. The plan states that new neighborhoods should be designed with a mix of housing types, and pedestrian and bicycle connectivity should be provided within and between neighborhoods (Policy – 1.1.2.). Supporting land uses can include accessory dwelling units, single-family attached homes, duplexes, and townhouses. The recommended density for Suburban Neighborhoods is two to five units per acre.		
	The proposed townhome and single-family residential development provides a mixture of housing types as promoted by the Comprehensive Plan. The proposed		

net density is approximately 3.5 units per acre, which is within the prescribed density range of the Suburban Residential land use category, which is two to five units per acre and is therefore compliant with the 2022 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 single-family homes and townhomes furthers the Regional Comprehensive Plan Goal of providing 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:

- Comments The rezoning area appears to have been zoned A-4 following annexation as an interim zone district prior to development. It is appropriate to rezone to a low-density residential zone district as prescribed by the Pueblo Regional Comprehensive Plan, 2022 and the proposed Ventana Estates Overall Development Plan.

A general description of the proposed development to the distance which will be affected; such description including subjects of environmental effect, economic effect, and traffic effect, if any; and such description carried out in scope and detail to the extent needed to support the requested amendment and as may be required by the Planning and Zoning Commission.

- Comments The rezoning site is currently undeveloped natural lands. The proposed rezoning will facilitate development of single-family residences and townhomes. Because the site is currently undeveloped, traffic volumes will increase; however, the proposed residential development will have approximately 25 fewer residential dwelling units than the previously approved 2002 Ventana Master Plan. Therefore, traffic will not be any greater than originally proposed and approved.

A tentative site plan showing proposed structures, uses, open spaces, facilities for parking and loading and arrangements for pedestrian and vehicular circulation.

- Comments The proposed Ventana Estates Overall Development Plan includes tentative lot layouts, a Parks and Open Space Plan, and Street Network Plan.

A statement of the proposed time schedule for beginning and completion of development.

- Comments The application does not include an estimated time schedule for beginning and completion of the development.

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 does not include a statement reasonably indicating the applicant's economic responsibility and capability of accomplishing the development for which the zoning amendment is requested.

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 with the following condition:

1. **Provide a legal description, for the area to be rezoned, in a Word Document format prior to City Council review.**

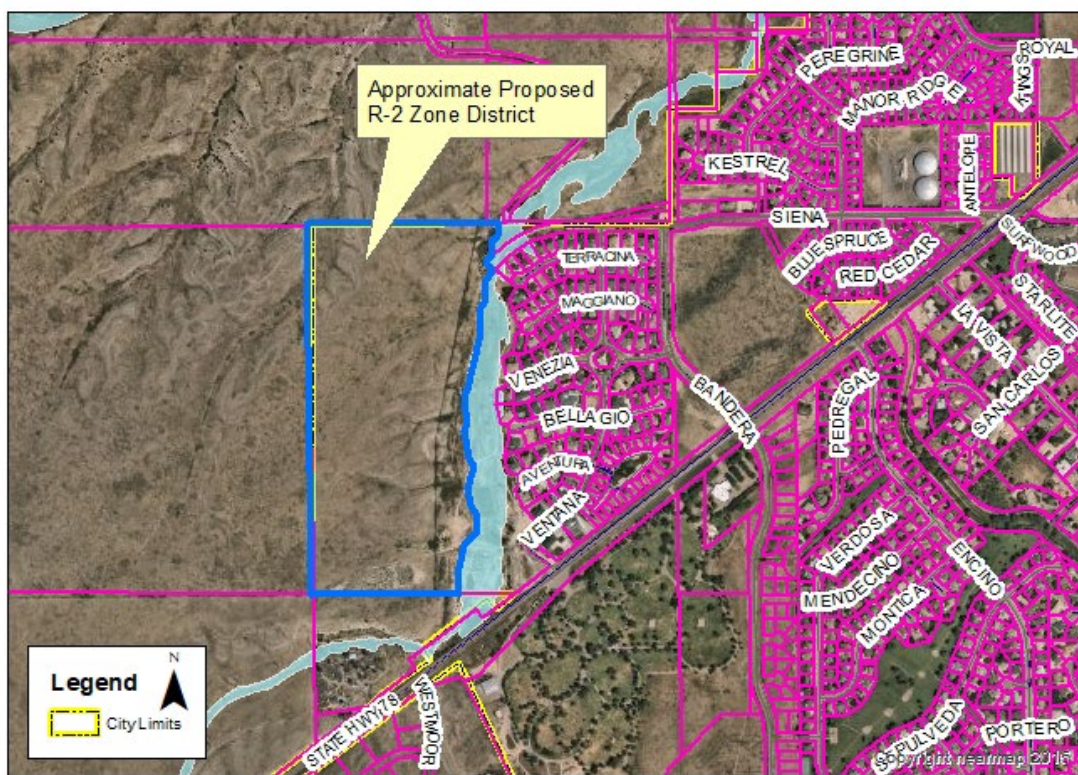
REFERRAL AGENCIES AND COMMENTS:

- 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

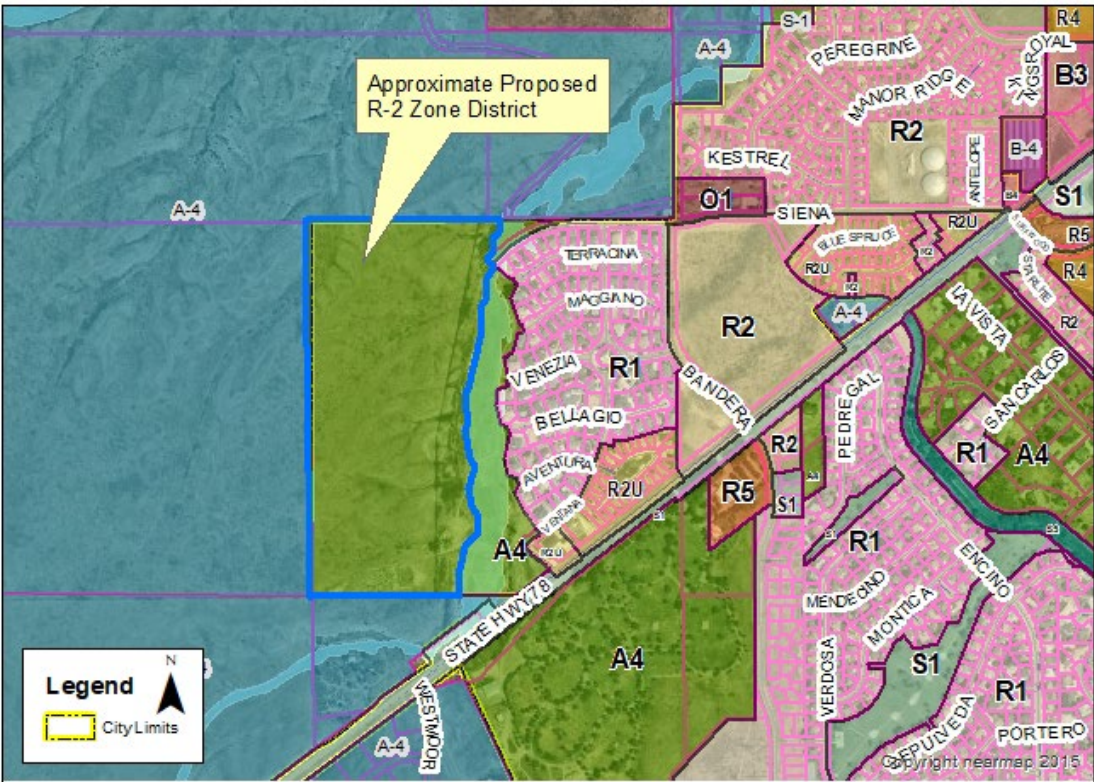
- City Wastewater-No comment
- City Stormwater-No comment
- City Parks and Recreation Department-No comment
- Xcel Energy-No comment
- Black Hills Energy-No comment
- CDOT-No comment

ATTACHMENTS:

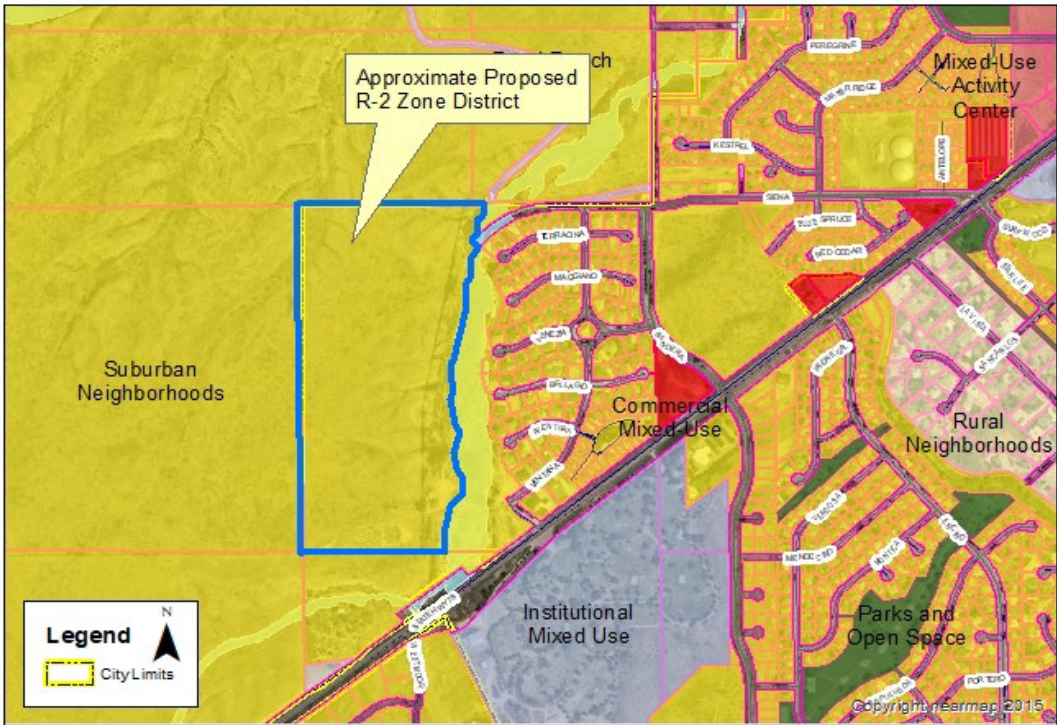
- A. **Aerial Photograph**
- B. **Zoning Map**
- C. **Comprehensive Plan Map**
- D. **Site Photographs**
- E. **Zoning Exhibit**



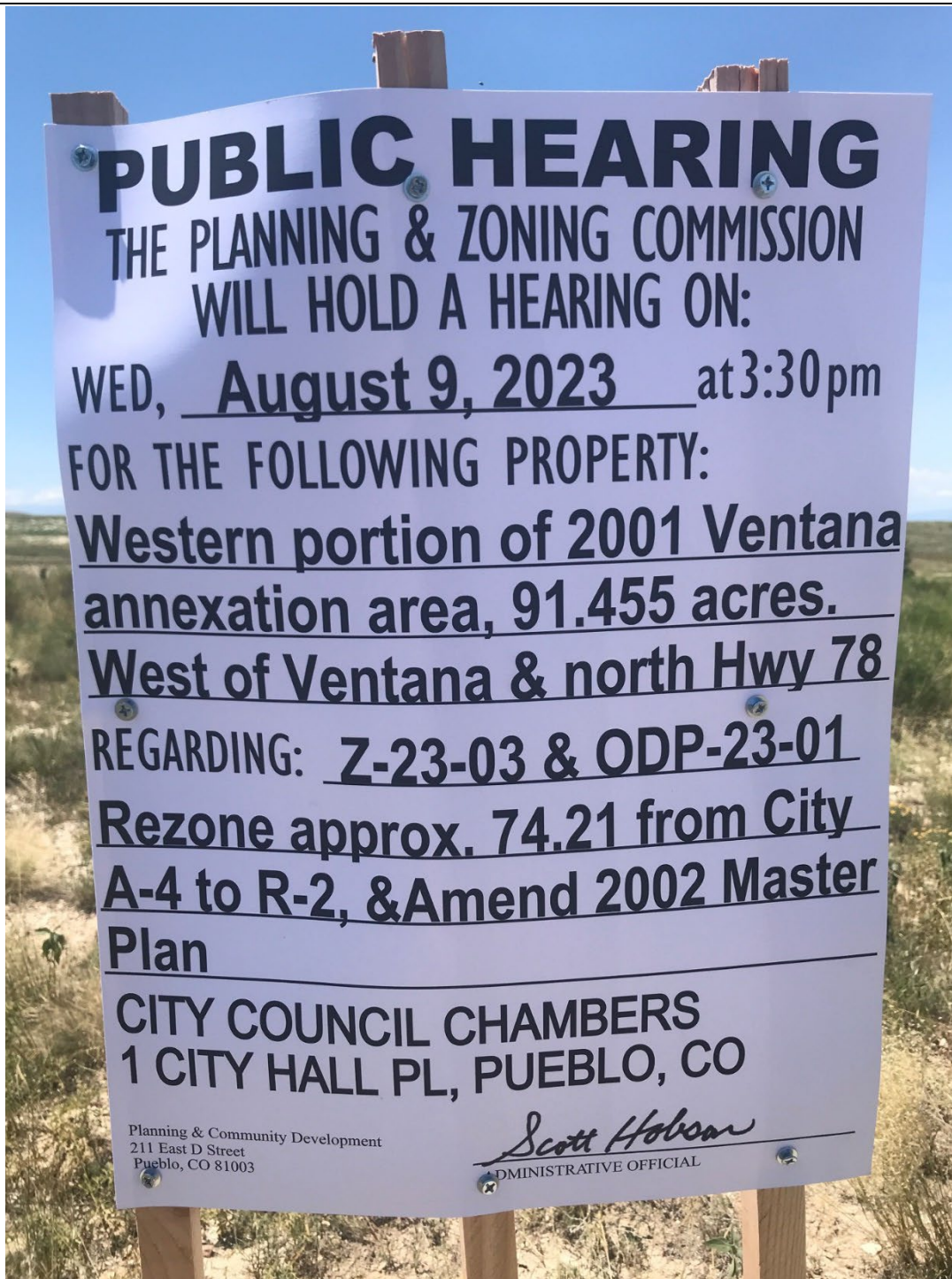
A. Aerial Photograph



B. Zoning



C. Comprehensive Plan



D. Public Notice



D. Rezoning site looking northwest from the corner of Northern Ave. and Ventana Cir.



D. Rezoning Site looking west from Aventura Way

July 25, 2023

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **Ramesh Kalwala, Vestoge Pueblo, CO LLC** for approval of the following application(s):

ODP-23-01 Ventana Estates, Filing 2, Overall Development Plan: Amendment of the 2002 Ventana Master Plan to facilitate residential development in the western portion of the 2001 Ventana Annexation area, approximately 91.455 acres.

Z-23-03 Ventana, Filing 2 Rezoning: Approximately 74.21 acres, generally located west of Ventana, Filing No. 1 Subdivision and north of State Highway 78, to be rezoned from City of Pueblo A-4 to R-2, Single-Family Residential.

The Planning and Zoning Commission meeting will be held on August 9, 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). 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-23-03

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 # 1517000022 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.

July 25, 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 Parcel #1517000022, upon which action is pending as set forth in the Code of Ordinances, Section 17-6-2.

July 25, 2023

(Date)

PUEBLO PLANNING & ZONING COMMISSION

By Cindy Caputo

Owner	OwnerStree	OwnerCity	Owne
VESTOGE PUEBLO CO LLC	13800 COPPERMINE RD	HERNDON	VA
WILSON FAMILY PARTNERSHIP LTD	207 BRIDLE TRL UNIT O	PUEBLO	CO
O QUIN NICHOLAS R/O QUIN AUBREY J	2422 VENTANA CIR	PUEBLO	CO
PUEBLO RECREATION INVESTORS LLC	31 N TEJON ST STE 500	COLORADO SPR CO	
SOTO KEITH/SOTO OLIVIA	323 QUINCY ST	PUEBLO	CO
VIALPANDO STEPHEN G + VIALPANDO DEBRA K ,	37 POSADA DR	PUEBLO	CO
HALDE KERRY W/HALDE CYNTHIA J	46495 US HIGHWAY 24	BURLINGTON	CO
KNEZEVICH MARY A	5521 STATE HWY 78	PUEBLO	CO
TURNER CHRISTOPHER MICHAEL + TURNER LEA ANN ,	5605 TERRACINA PL	PUEBLO	CO
AUGEROT MATTHEW / AUGEROT JANELLE	5605 TERRACINA PL	PUEBLO	CO
TORRES PEDRO J/TORRES VALERIE A	5610 TERRACINA PL	PUEBLO	CO
RASO GARY J/RASO WENDY H	5611 TERRACINA PL	PUEBLO	CO
MORROW DAVID R II	5618 TERRACINA PL	PUEBLO	CO
ROBERTS TONY/ROBERTS DEBRA	5623 TERRACINA PL	PUEBLO	CO
TORLINE DAVID K/TORLINE CAROLYN C	5627 TERRACINA PL	PUEBLO	CO
BELL BRIAN A/BELL KERRI L	5631 MAGGIANO PL	PUEBLO	CO
BUXTON DALE O/BUXTON SUSAN S REVO	5633 TERRACINA PL	PUEBLO	CO
WHITE JODI L	5634 TERRACINA PL	PUEBLO	CO
JIN DONGKWAN + LEE SANGMI ,	5637 MAGGIANO PL	PUEBLO	CO
ZERFAS BRAD C/ZERFAS MARY M	5637 TERRACINA PL	PUEBLO	CO
SOTO GUILLERMO E TR/SOTO DEBRA J	5637 VENEZIA WAY	PUEBLO	CO
ORESKOVICH ANTHONY G + ORESKOVICH CELESTE M ,	5641 AVENTURA WAY	PUEBLO	CO
DANIELS SALLY J	5641 TERRACINA PL	PUEBLO	CO
LEWIS ERIC ANDREW / ROUKEMA THOMA	5645 MAGGIANO PL	PUEBLO	CO
GUTIERREZ AARON C	5645 TERRACINA PL	PUEBLO	CO
LARSEN ARNOLD R/LARSEN CHRISTINE	5645 VENEZIA WAY	PUEBLO	CO
MCCAFFERTY DAVID R + MCCAFFERTY JESSICA L ,	5647 AVENTURA WAY	PUEBLO	CO
NORICK DENNIS WAYNE / WILLEY LEAH	5648 AVENTURA WAY	PUEBLO	CO
BOZZI AARON / BOZZI VIVIANA SALV	5648 BELLAGIO WAY	PUEBLO	CO
KONCILJA FAMILY TRUST LLC	5648 TERRACINA PL	PUEBLO	CO
GARCIA MICHAEL L	5648 VENEZIA WAY	PUEBLO	CO
MURAD ALI KHETRAN/MURAD BARBARA G	5649 BELLAGIO WAY	PUEBLO	CO
PRUTCH FREDERICK R	5650 MAGGIANO PL	PUEBLO	CO
C F + I STEEL LP + C/O TAX DEPT ,	PO BOX 316	PUEBLO	CO

OwnerZip
20171-6163
81005-2974
81005-5575
80903-1514
81004-2024
81005-2946
80807-9405
81005-9606
81005-5582
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81002-0316



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff 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 SECTION SEVEN OF CHAPTER FOUR OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE RELATING TO LANDSCAPE PERFORMANCE STANDARDS

SUMMARY:

Attached for consideration is an Ordinance that amends Section 17-4-7(b),(2) of the Pueblo Municipal Code relating to Landscape Performance Standards.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Currently, the Municipal Code requires developed commercial, industrial, and multifamily properties to come into full compliance with the landscaping code when any additional structure is constructed or placed on the property, regardless of size or proposed use of the building. In situations where a property was developed several years ago and the landscaping does not meet the current Landscape Performance Standards, Section 17-4-7 of the Pueblo Municipal Code, the addition of a small accessory structure, such as a storage shed, gazebo, pergola, etc., would require expensive landscape improvements to be made in conjunction with the construction or placement of that accessory structure. Requiring full landscaping for accessory structures is often a significant financial burden for property owners and a disincentive for redevelopment and investment into an existing site. The proposed amendment also includes other minor changes in the code language to improve comprehension and address provisions that currently conflict with other portions of the code.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their December 13, 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 by publication of the proposed amendment fifteen (15) days prior to the Public Hearing.

ALTERNATIVES:

If City Council does not approve this Ordinance, Section 17-4-7(b),(2) relating to Landscape Performance Standards will remain.

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. TA-23-01 Attachments

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION SEVEN OF CHAPTER
FOUR OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE
RELATING TO LANDSCAPE PERFORMANCE STANDARDS

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

SECTION 1.

Section 17-4-7(b)(2) of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 17-4-7. Landscape Performance Standard

...

(2) Applicable Zones: Unless provided through a Special Area Plan or Planned Unit Development, the provisions of this Section shall apply in the following zone districts: R-4, R-5, R-6, RCN, B-1, B-2, B-3, B-4, BP, PUD (when the PUD does not establish its own landscaping regulations), H-B, Industrial-Zoned properties in the designated high-visibility areas, O-1, CCN, S-1, S-4 and S-5 when at least one (1) of the following occurs within the above-mentioned zones:

a. The construction or placement of any building or structure upon any lot. Exceptions to this requirement include constructing or placing any one (1) family, residence or two (2) family residence, and constructing or placing accessory structure(s) with a singular or cumulative ground floor area of 1,000 square feet or fewer.

b. Any structural addition of thirty-five percent (35%) or more of the ground floor area [gross square footage] [of] to an existing building, except a residence, one (1) family and a residence, two (2) family. [or] An addition of ten thousand (10,000) square feet of ground floor area [gross square feet] or more [of] to an existing building in any [I-2 zone] Industrial district [(whichever quantity is less)]. Additional increases in floor area, based on the above zone districts, shall be a maximum allowable limit of expansion whether cumulative or not, based on structure size after 2017.

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 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

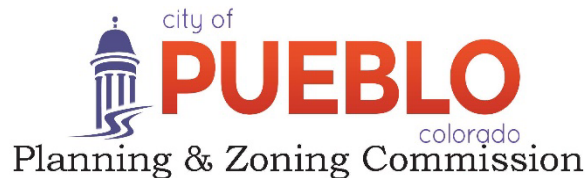
ATTEST

City Clerk

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, December 13, 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: Alexandra Aznar, Mike Castellucci, Patrick Avalos, Cheryl Spinuzzi, Lisa Bailey, Christopher Pasternak, Sarah Martinez

Commissioners Absent: None

Staff Members Present: Paul Willumstad, Attorney; David Wyatt, Assistant City Attorney, Scott Hobson, Acting Director of Planning and Community Development, Beritt Odom, Principal Planner; Mikaylin Hackley, Planner, Andrew Hayes, Public Works Director, Noah Stamm, Drainage Engineer, Melanie Turner, Traffic Engineer, and Joe Martellaro, Associate Engineer II.

Staff Members Absent: None

Approval of the Agenda: Bailey motioned to move items Z-23-10, S-23-07, S-22-07 and Z-23-12 to the January 10, 2024, meeting and approve the December 13, 2023, agenda as amended, seconded by Spinuzzi.

Motion Passed: 7-0

Public Hearing:

7. TA-23-01 Landscape Performance Standards, Accessory Structure Exemption: Modifies the existing Zoning Code to exempt certain accessory structures from the Landscape Performance Standards.

Beritt Odom, Principal Planner, provided the staff report.

Hearing: No one testified in favor or opposition of the request.

Commission Action: Bailey moved to recommend approval of TA-23-01, seconded by Aznar.

Motion Passed: 7-0

TEXT AMENDMENT TA-23-01

TO: City of Pueblo Planning and Zoning Commission
FROM: Beritt Odom, Principal Planner & Bart Mikitowicz, Senior Planner
THROUGH: Scott Hobson, Acting Director of Planning and Community Development
DATE: December 13, 2023
SUBJECT: AN ORDINANCE AMENDING SECTION 17-4-7 OF CHAPTER 4 OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE RELATING TO LANDSCAPE PERFORMANCE STANDARDS

Background:

Currently, the Municipal Code requires developed commercial, industrial, and multifamily properties to come into full compliance with the landscaping code when any additional structure is constructed or placed on the property, regardless of size or proposed use of the building. In situations where a property was developed several years ago and the landscaping does not meet the current Landscape Performance Standards, Section 17-4-7 of the Pueblo Municipal Code, the addition of a small accessory structure, such as a storage shed, gazebo, pergola, etc., would require expensive landscape improvements to be made in conjunction with the construction or placement of that accessory structure. Requiring full landscaping for accessory structures is often a significant financial burden for property owners and a disincentive for redevelopment and investment into an existing site.

The proposed amendment also includes other minor changes in the code language to improve comprehension and address provisions that currently conflict with other portions of the code.

Analysis:

The Planning and Community Development Department proposes to exempt new accessory structures with a cumulative ground floor area of 1,000 square feet or fewer from the landscape requirements. This will allow a property owner to construct or place one or more accessory structures with a cumulative ground floor area of not more than 1,000 square feet without having to bring the property's landscaping into compliance with the current code. In situations where shipping containers are allowed by right (industrial zone districts) or by Special Use Permit (commercial zone districts) a property may be allowed to have up to three larger-sized shipping containers without having to landscape the entire parcel or lot. This will also allow other types of storage structures which will still have to be architecturally compatible with the principal structure gazebos, pergolas, or other similar structures.

The proposed amendment also exempts residential duplex structures from having to landscape according to the code in R-4, R-5, and R-6 Zone Districts. Other portions of the code, such as the Single-Family Placement Standards, treat single-family homes and duplex units equally. Not exempting duplex units from the landscape requirements was most likely an oversight at the time of landscape code adoption.

The amendment proposes to change the current reference of “gross floor area” to “ground floor area” to calculate whether a structural addition or a free-standing accessory structure will trigger landscape improvements. Gross floor area is defined as the sum of all areas on all floors of a building included within the outside faces of the exterior walls. Ground floor area is the total area of a building between the outside faces of the exterior walls of the story at ground level. Typically, the ground floor area is of most concern with regard to zoning regulations. Lot coverage and setbacks are determined based on the ground floor area of a structure, not the gross floor area. Staff feels that it is more appropriate to determine if landscape improvements are necessary based on an increase of ground floor area as opposed to gross floor area.

Prior to 2018, landscaping regulations applied to multifamily, commercial, and light industrial zone districts. Landscaping was not required for the I-3, Heavy Industrial District. In 2018, the “Building and Site Design Standards for Industrial Zone Districts” was adopted, which identifies high visibility and low visibility industrial areas and requires different landscaping standards for each area. The site design standards also require I-3 Zone Districts to landscape according to the designation of high or low visibility (Section 17-4-49 of the Pueblo Municipal Code). Section 17-4-7, (2), b., was not amended to reflect the change and only referenced I-2 Zone Districts in calculating whether landscaping was required. The proposed amendment removes the I-2 reference and replaces it with “Industrial District,” to accurately reflect the requirements of Section 17-4-49.

Recommendation:

Staff recommends that if the Planning and Zoning Commission finds the proposed accessory structure exemption and language clarification changes to the code are appropriate, a recommendation of approval for the Text Amendment is forwarded to City Council

Attachments:

Ordinance Amending Section, 17-4-7, (b), (2) of Title XVII of the Pueblo Municipal Code Relating to

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION SEVEN OF
CHAPTER FOUR OF TITLE XVII OF THE PUEBLO
MUNICIPAL CODE RELATING TO LANDSCAPE
PERFORMANCE STANDARDS

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

(brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1.

Section 17-4-7(b)(2) of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 17-4-7. Landscape Performance Standard

. . .

(2) Applicable Zones: Unless provided through a Special Area Plan or Planned Unit Development, the provisions of this Section shall apply in the following zone districts: R-4, R-5, R-6, RCN, B-1, B-2, B-3, B-4, BP, PUD (when the PUD does not establish its own landscaping regulations), H-B, Industrial-Zoned properties in the designated high-visibility areas, O-1, CCN, S-1, S-4 and S-5 when at least one (1) of the following occurs within the above-mentioned zones:

a. The construction or placement of any building or structure upon any lot. Exceptions to this requirement include constructing or placing any one (1) family, residence or two (2) family residence, and constructing or placing accessory structure(s) with a singular or cumulative ground floor area of 1,000 square feet or fewer.

b. Any structural addition of thirty-five percent (35%) or more of the ground floor area [gross square footage] [of] to an existing building, except a residence, one (1) family and a residence, two (2) family, [or] An addition of ten thousand (10,000) square feet of ground floor area [gross square feet] or more [of] to an existing building in any [I-2 zone] Industrial district [(whichever quantity is less)]. Additional increases in floor area, based on the above zone districts, shall be a maximum allowable limit of expansion whether cumulative or not, based on structure size after 2017.

**DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT
CITY OF PUEBLO**

**Submitted November 21, 2023
Published November 28, 2023**

NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN:

Take notice that at 3:30 P.M., on the 13th day of December, 2023 in the **City Council Chambers, 1 City Hall Place**.

The Planning and Zoning Commission of Pueblo will hold a hearing for the following:

TA-23-01: An ordinance amending Section 17-4-7 of Chapter 4 Title XVII of the Pueblo Municipal Code relating to Landscape Performance Standards.

The proposed text amendment modifies the existing applicability section of the Landscape code exempting two-family residences and accessory structures with less than 1,000 sq.ft. of floor area from the requirements of the section.

A draft of the proposed text amendments will be posted on www.pueblo.us/PandZ under "Most Recent Agenda" and on file in the office of the Department of Planning and Community Development office and will be available for viewing and printing, typically the Friday prior to the meeting.

Any person may appear before the Planning and Zoning Commission at the time and place stated above to be heard on the proposed amendments. Individuals who require special arrangements to participate are encouraged to contact the Planning Department at least 72 hours in advance.

After the public hearing and recommendation by the Planning and Zoning Commission, the ordinance adopting the proposed Text Amendment will be considered by the City Council at a public hearing. Notice of the public hearing before the City Council will be published in the Pueblo Chieftain at least ten (10) days prior to the hearing. Any interested person may appear and be heard at such public hearing and may call the Department of Planning and Community Development for the time and date of such public hearing.


Scott Hobson
Administrative Official
(719) 553-2259



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff 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 SECTION 5 OF CHAPTER 4, OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE RELATING TO THE APPEAL PROCESS FOR DEVELOPMENT AND REDEVELOPMENT REVIEW IN THE HB, HARP-1, HARP -2 AND HARP-3 PERFORMANCE STANDARD REVIEW

SUMMARY:

Attached for consideration is a Text Amendment that will amend section 5 of chapter 4 of Title XVII of the Pueblo Municipal Code relating to the appeal process for development and redevelopment review in the HB, HARP-1, HARP-2 AND HARP-3 Zone Districts.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

In 2009, City Council approved Ordinance 8079, with recommendation from the Planning and Zoning Commission to dissolve the Pueblo Architectural Review Board (PARB). Prior to dissolution, PARB was responsible for reviewing and issuing Certificates of Compliance for new construction, remodeling, reconstructing, and rehabilitation of structures within the Historic Business (HB) and Historic Arkansas Riverwalk Zone Districts 1, 2 & 3. At the time, Planning and Community Development Staff asserted that PARB review duplicated reviews conducted by the Historic Preservation Commission, which was unnecessary. No substantial justification for the Planning and Zoning Commission conducting development reviews within the HARP Zone Districts was provided in the staff report presented to the Planning and Zoning Commission. Ordinance 8079 dissolved PARB and inadvertently removed appeal procedures for applicants that received a denial from either HB or P&Z on their development or redevelopment proposal. Because of this, Planning and Community Development Department staff recommend modifying the existing Zoning Code to re-

establish appeal procedures for development and redevelopment review with the HB, HARP-1, HARP-2 AND HARP-3 Zone Districts.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their December 13, 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 by publication of the proposed amendment fifteen (15) days prior to the Public Hearing.

ALTERNATIVES:

If City Council does not approve this Ordinance, there will be no appeal procedures for the development review in the HB, HARP-1, HARP-2 and HARP-3 Zone Districts. 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. TA-23-04 Attachments
2. ORDINANCE TA-23-04 HB, HARP 1-3 Appeal Procedures

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 5 OF CHAPTER 4, OF
TITLE XVII OF THE PUEBLO MUNICIPAL CODE RELATING TO
THE APPEAL PROCESS FOR DEVELOPMENT AND
REDEVELOPMENT REVIEW IN THE HB, HARP-1, HARP -2 AND
HARP-3 PERFORMANCE STANDARD REVIEW

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

SECTION 1.

SECTION 2.

SECTION 3.

SECTION 4.

SECTION 5.

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 6.

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

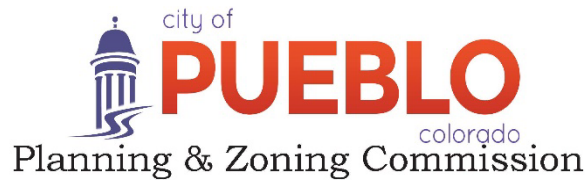
ATTEST

City Clerk

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, December 13, 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: Alexandra Aznar, Mike Castellucci, Patrick Avalos, Cheryl Spinuzzi, Lisa Bailey, Christopher Pasternak, Sarah Martinez

Commissioners Absent: None

Staff Members Present: Paul Willumstad, Attorney; David Wyatt, Assistant City Attorney, Scott Hobson, Acting Director of Planning and Community Development, Beritt Odom, Principal Planner; Mikaylin Hackley, Planner, Andrew Hayes, Public Works Director, Noah Stamm, Drainage Engineer, Melanie Turner, Traffic Engineer, and Joe Martellaro, Associate Engineer II.

Staff Members Absent: None

Approval of the Agenda: Bailey motioned to move items Z-23-10, S-23-07, S-22-07 and Z-23-12 to the January 10, 2024, meeting and approve the December 13, 2023, agenda as amended, seconded by Spinuzzi.

Motion Passed: 7-0

Public Hearing:

8. TA-23-04 HB, HARP-1, HARP-2, and HARP-3, Appeal Procedures: Modifies the existing Zoning Code to re-establish appeal procedures for development and redevelopment review within the HB, HARP-1, HARP-2, and HARP-3 Zone Districts.

Beritt Odom, Principal Planner, provided the staff report.

Hearing: No one testified in favor or opposition of the request.

Commission Action: Bailey moved to recommend approval of TA-23-04, seconded by Spinuzzi.

Motion Passed: 7-0

TEXT AMENDMENT TA-23-04

TO: City of Pueblo Planning and Zoning Commission
FROM: Beritt Odom, Principal Planner
THROUGH: Scott Hobson, Acting Director of Planning and Community Development
DATE: December 13, 2023
SUBJECT: An ordinance amending Sections, 17-4-5, (5), a. 2.; 17-4-5, (5), b., 4.; 17-4-5, (5), c., 3.; 17-4-5, (5), d., 3. of Title XVII of the Pueblo Municipal Code relating to the appeal process for development and redevelopment review in the HB, HARP-1, HARP-2, and HARP-3, Zone Districts.

Background:

In 2009, City Council approved Ordinance 8079, with recommendation from the Planning and Zoning Commission to dissolve the Pueblo Architectural Review Board (PARB). Prior to dissolution, PARB was responsible for reviewing and issuing Certificates of Compliance for new construction, remodeling, reconstructing, and rehabilitation of structures within the Historic Business (HB) and Historic Arkansas Riverwalk Zone Districts 1, 2 & 3. At the time, Planning and Community Development Staff asserted that PARB review duplicated reviews conducted by the Historic Preservation Commission, which was unnecessary. No substantial justification for the Planning and Zoning Commission conducting development reviews within the HARP Zone Districts was provided in the staff report presented to the Planning and Zoning Commission.

Ordinance 8079 dissolved PARB and inadvertently removed appeal procedures for applicants that received a denial from either HB or P&Z on their development or redevelopment proposal. Because of this, Planning and Community Development Department staff recommend reestablishing appeal procedures for the Certificate of Compliance review process.

Analysis:

Presently, Sections 17-4-5, (5) of the Pueblo Municipal Code (PMC) requires any work undertaken or commenced to construct, reconstruct, remodel, repair, paint, rehabilitate or in any way alter or modify the exterior of any building in the Historic Business (HB) or Historic Arkansas Riverwalk of Pueblo Zone Districts 1, 2 & 3 to be reviewed by either the Historic Preservation Commission (HPC) or Planning and Zoning Commission (P&Z). The Historic Preservation Commission reviews all rehabilitation and construction within the HB District, if the Commission makes the necessary findings of fact, it issues a Certificate of Compliance for the proposed development or redevelopment and staff is authorized to approve building permits, etc. The Planning and Zoning Commission reviews all development and redevelopment within the HARP Zone Districts 1, 2 & 3, if the Commission approves the proposed development or redevelopment according to the development standards in the Municipal Code, a Certificate of Compliance is issued and staff is authorized to approve building permits.

The proposed appeal procedures are very similar to the appeal procedures that were codified prior to 2009, with minor changes made to the wording to improve comprehension. The appeal procedure for HB and all HARP Districts will consist of an adversely affected applicant filing a written request for review to the City Council. The applicant must specify in detail the provisions of the Commission's decision asserting that the Commission's decision was arbitrary, capricious, or beyond the jurisdiction of the Commission. City Council will then review the appeal request and conduct a hearing. The City Council may sustain the decision of the Commission or rule that the Commission acted in an arbitrary or capricious manner and remand the decision back to the Commission for a redetermination that is consistent with City Council's findings. Any person adversely affected by the Commission's findings, following City Council review and findings, may seek judicial review by the Pueblo County District Court.

The proposed appeal procedure is the same procedure that HPC follows for Certificates of Appropriateness related to development within a Historic District or redevelopment of a landmarked property. It is also the same appeal procedure that was codified for HARP Zone Districts prior to the 2009 dissolution of PARB.

Recommendation:

Staff recommends that if the Planning and Zoning Commission finds the proposed Appeal Procedures are appropriate, a recommendation of approval for the Text Amendment is forwarded to City Council.

Attachments:

Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 5 OF CHAPTER 4,
OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE
RELATING TO ESTABLISHING APPEAL PROCEEDURES
RELATED TO THE HB, HARP-1, HARP-2, AND HARP-3
PERFORMANCE STANDARD REVIEW

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:
(brackets indicate matter being deleted, underscoring indicating matter being added)

SECTION 1.

Section 17-4-5, (5), a., of Title XVII of the Pueblo Municipal Code, as amended, is hereby modified by the addition of subsections 17-4-5, (5), a., 2., (a) and (b) to read as follows:

Sec. 17-4-5, (5), a., 2., Appeals.

- (a) Any person adversely affected by a decision of the Historic Preservation Commission may appeal such decision to the City Council by filing with the City Clerk, within twenty (20) days after Commission's decision, a written request for review. Such appeal must specify in detail the provisions of the Commission's decision the person contends are arbitrary or capricious or is beyond the jurisdiction of the Commission, and the supporting grounds and reasons together with a copy of the Commission's decision. The City Council shall conduct a hearing to review the provisions asserted to be arbitrary or capricious or beyond the jurisdiction of the Commission, and the supporting grounds and reasons specified in the request for review. The person seeking review and the Commission shall be given written notice of the date, time and place of the review hearing at least ten (10) days before the hearing date. Notice to the person seeking review shall be given by first-class mail, postage prepaid, at the person's address stated in the appeal. No other notice need be given for such a hearing. The City Council may sustain the decision of the Commission if it finds that the Commission exceeded its jurisdiction or acted in an arbitrary or capricious manner. If City Council finds the Commission exceeded its jurisdiction or acted in an arbitrary or capricious manner, the City Council will remand the appeal to the Commission for a redetermination within thirty (30) days. Such determination shall be limited to and consistent with the City Council's written findings. The appeal hearing shall be conducted as near as practicable according to the procedures set forth in Chapter 7 of Title I of this Code. The Commission's decision will be stayed until the City Council rules on the appeal.
- (b) Any person adversely affected after the Commission makes a final determination, after a review and decision by City Council, may seek judicial

review by the District Court, Pueblo County, Colorado, in the manner provided in Rule 106(a)(4), of the Colorado Rules of Civil Procedure. A complaint seeking such review shall be filed in Pueblo District Court no later than thirty (30) days after the Commission's final decision.

SECTION 2.

Section 17-4-5, (5), b., of Title XVII of the Pueblo Municipal Code, as amended, is hereby modified by the addition of subsections 17-4-5, (5), b., 4., (a) and (b) to read as follows:

Sec. 17-4-5, (5), b., 4., Appeals.

- (a) Any person adversely affected by a decision of the Planning and Zoning Commission may appeal such decision to the City Council by filing with the City Clerk, within twenty (20) days after Commission's decision, a written request for review. Such appeal must specify in detail the provisions of the Commission's decision the person contends are arbitrary or capricious or is beyond the jurisdiction of the Commission, and the supporting grounds and reasons together with a copy of the Commission's decision. The City Council shall conduct a hearing to review the provisions asserted to be arbitrary or capricious or beyond the jurisdiction of the Commission, and the supporting grounds and reasons specified in the request for review. The person seeking review and the Commission shall be given written notice of the date, time and place of the review hearing at least ten (10) days before the hearing date. Notice to the person seeking review shall be given by first-class mail, postage prepaid, at the person's address stated in the appeal. No other notice need be given for such a hearing. The City Council may sustain the decision of the Commission if it finds that the Commission exceeded its jurisdiction or acted in an arbitrary or capricious manner. If City Council finds the Commission exceeded its jurisdiction or acted in an arbitrary or capricious manner, the City Council will remand the appeal to the Commission for a redetermination within thirty (30) days. Such determination shall be limited to and consistent with the City Council's written findings. The appeal hearing shall be conducted as near as practicable according to the procedures set forth in Chapter 7 of Title I of this Code. The Commission's decision will be stayed until the City Council rules on the appeal.
- (b) Any person adversely affected after the Commission makes a final determination, after a review and decision by City Council, may seek judicial review by the District Court, Pueblo County, Colorado, in the manner provided in Rule 106(a)(4), of the Colorado Rules of Civil Procedure. A complaint seeking such review shall be filed in Pueblo District Court no later than thirty (30) days after the Commission's final decision.

SECTION 3.

Section 17-4-5, (5), c., of Title XVII of the Pueblo Municipal Code, as amended, is hereby modified by the addition of subsections 17-4-5, (5), c., 3., (a) and (b) to read as follows:

Sec. 17-4-5, (5), c., 3., Appeals.

- (a) Any person adversely affected by a decision of the Planning and Zoning Commission may appeal such decision to the City Council by filing with the City Clerk, within twenty (20) days after Commission's decision, a written request for review. Such appeal must specify in detail the provisions of the Commission's decision the person contends are arbitrary or capricious or is beyond the jurisdiction of the Commission, and the supporting grounds and reasons together with a copy of the Commission's decision. The City Council shall conduct a hearing to review the provisions asserted to be arbitrary or capricious or beyond the jurisdiction of the Commission, and the supporting grounds and reasons specified in the request for review. The person seeking review and the Commission shall be given written notice of the date, time and place of the review hearing at least ten (10) days before the hearing date. Notice to the person seeking review shall be given by first-class mail, postage prepaid, at the person's address stated in the appeal. No other notice need be given for such a hearing. The City Council may sustain the decision of the Commission if it finds that the Commission exceeded its jurisdiction or acted in an arbitrary or capricious manner. If City Council finds the Commission exceeded its jurisdiction or acted in an arbitrary or capricious manner, the City Council will remand the appeal to the Commission for a redetermination within thirty (30) days. Such determination shall be limited to and consistent with the City Council's written findings. The appeal hearing shall be conducted as near as practicable according to the procedures set forth in Chapter 7 of Title I of this Code. The Commission's decision will be stayed until the City Council rules on the appeal.
- (b) Any person adversely affected after the Commission makes a final determination, after a review and decision by City Council, may seek judicial review by the District Court, Pueblo County, Colorado, in the manner provided in Rule 106(a)(4), of the Colorado Rules of Civil Procedure. A complaint seeking such review shall be filed in Pueblo District Court no later than thirty (30) days after the Commission's final decision.

SECTION 4.

Section 17-4-5, (5), d., of Title XVII of the Pueblo Municipal Code, as amended, is hereby modified by the addition of subsections 17-4-5, (5), d., 3., (a) and (b) to read as follows:

Sec. 17-4-5, (5), d., 3., Appeals.

- (a) Any person adversely affected by a decision of the Planning and Zoning Commission may appeal such decision to the City Council by filing with the City Clerk, within twenty (20) days after Commission's decision, a written request for review. Such appeal must specify in detail the provisions of the Commission's decision the person contends are arbitrary or capricious or is beyond the jurisdiction of the Commission, and the supporting grounds and reasons together with a copy of the Commission's decision. The City Council shall conduct a hearing to review the provisions asserted to be arbitrary or capricious or beyond the jurisdiction of the Commission, and the supporting grounds and reasons specified in the request for review. The person seeking review and the Commission shall be given written notice of the date, time and place of the review hearing at least ten (10) days before the hearing date. Notice to the person seeking review shall be given by first-class mail, postage prepaid, at the person's address stated in the appeal. No other notice need be given for such a hearing. The City Council may sustain the decision of the Commission if it finds that the Commission exceeded its jurisdiction or acted in an arbitrary or capricious manner. If City Council finds the Commission exceeded its jurisdiction or acted in an arbitrary or capricious manner, the City Council will remand the appeal to the Commission for a redetermination within thirty (30) days. Such determination shall be limited to and consistent with the City Council's written findings. The appeal hearing shall be conducted as near as practicable according to the procedures set forth in Chapter 7 of Title I of this Code. The Commission's decision will be stayed until the City Council rules on the appeal.
- (b) Any person adversely affected after the Commission makes a final determination, after a review and decision by City Council, may seek judicial review by the District Court, Pueblo County, Colorado, in the manner provided in Rule 106(a)(4), of the Colorado Rules of Civil Procedure. A complaint seeking such review shall be filed in Pueblo District Court no later than thirty (30) days after the Commission's final decision.

SECTION 5.

This Ordinance shall become effective immediately after final passage and approval.

INTRODUCED: _____

BY: _____
COUNCIL PERSON

APPROVED: _____
PRESIDENT OF THE CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

PASSED AND APPROVED: _____

**DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT
CITY OF PUEBLO**

**Submitted November 21, 2023
Published November 28, 2023**

NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN:

Take notice that at 3:30 P.M., on the 13th day of December, 2023 in the **City Council Chambers**, 1 City Hall Place.

The Planning and Zoning Commission of Pueblo will hold a hearing for the following:

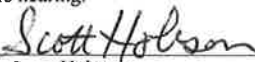
TA-23-04: An ordinance amending Sections, 17-4-5, (5), a. 2.; 17-4-5, (5), b., 4.; 17-4-5, (5), c., 3.; 17-4-5, (5), d., 3. of Title XVII of the Pueblo Municipal Code relating to the appeal process for development and redevelopment review in the HB, HARP-1, HARP-2, and HARP-3, Zone Districts.

The proposed text amendment modifies the existing Zoning Code to re-establish appeal procedures for development and redevelopment review within the HB, HARP-1, HARP-2, and HARP-3 Zone Districts.

A draft of the proposed text amendments will be posted on www.pueblo.us/PandZ under "Most Recent Agenda" and on file in the office of the Department of Planning and Community Development office and will be available for viewing and printing, typically the Friday prior to the meeting.

Any person may appear before the Planning and Zoning Commission at the time and place stated above to be heard on the proposed amendments. Individuals who require special arrangements to participate are encouraged to contact the Planning Department at least 72 hours in advance.

After the public hearing and recommendation by the Planning and Zoning Commission, the ordinance adopting the proposed Text Amendment will be considered by the City Council at a public hearing. Notice of the public hearing before the City Council will be published in the Pueblo Chieftain at least ten (10) days prior to the hearing. Any interested person may appear and be heard at such public hearing and may call the Department of Planning and Community Development for the time and date of such public hearing.


Scott Hobson
Administrative Official
(719) 553-2259

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 5 OF CHAPTER 4,
OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE
RELATING TO ESTABLISHING APPEAL PROCEEDURES
RELATED TO THE HB, HARP-1, HARP-2, AND HARP-3
PERFORMANCE STANDARD REVIEW

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

(brackets indicate matter being deleted, underscoring indicating matter being added)

SECTION 1.

Section 17-4-5, (5), a., of Title XVII of the Pueblo Municipal Code, as amended, is hereby modified by the addition of subsections 17-4-5, (5), a., 2., (a) and (b) to read as follows:

Sec. 17-4-5, (5), a., 2., Appeals.

- (a) Any person adversely affected by a decision of the Historic Preservation Commission may appeal such decision to the City Council by filing with the City Clerk, within twenty (20) days after Commission's decision, a written request for review. Such appeal must specify in detail the provisions of the Commission's decision the person contends are arbitrary or capricious or is beyond the jurisdiction of the Commission, and the supporting grounds and reasons together with a copy of the Commission's decision. The City Council shall conduct a hearing to review the provisions asserted to be arbitrary or capricious or beyond the jurisdiction of the Commission, and the supporting grounds and reasons specified in the request for review. The person seeking review and the Commission shall be given written notice of the date, time and place of the review hearing at least ten (10) days before the hearing date. Notice to the person seeking review shall be given by first-class mail, postage prepaid, at the person's address stated in the appeal. No other notice need be given for such a hearing. The City Council may sustain the decision of the Commission if it finds that the Commission exceeded its jurisdiction or acted in an arbitrary or capricious manner. If City Council finds the Commission exceeded its jurisdiction or acted in an arbitrary or capricious manner, the City Council will remand the appeal to the Commission for a redetermination within thirty (30) days. Such determination shall be limited to and consistent with the City Council's written findings. The appeal hearing shall be conducted as near as practicable according to the procedures set forth in Chapter 7 of Title I of this Code. The Commission's decision will be stayed until the City Council rules on the appeal.

- (b) Any person adversely affected after the Commission makes a final determination, after a review and decision by City Council, may seek judicial review by the District Court, Pueblo County, Colorado, in the manner provided in Rule 106(a)(4), of the Colorado Rules of Civil Procedure. A complaint seeking such review shall be filed in Pueblo District Court no later than thirty (30) days after the Commission's final decision.

SECTION 2.

Section 17-4-5, (5), b., of Title XVII of the Pueblo Municipal Code, as amended, is hereby modified by the addition of subsections 17-4-5, (5), b., 4., (a) and (b) to read as follows:

Sec. 17-4-5, (5), b., 4., Appeals.

- (a) Any person adversely affected by a decision of the Planning and Zoning Commission may appeal such decision to the City Council by filing with the City Clerk, within twenty (20) days after Commission's decision, a written request for review. Such appeal must specify in detail the provisions of the Commission's decision the person contends are arbitrary or capricious or is beyond the jurisdiction of the Commission, and the supporting grounds and reasons together with a copy of the Commission's decision. The City Council shall conduct a hearing to review the provisions asserted to be arbitrary or capricious or beyond the jurisdiction of the Commission, and the supporting grounds and reasons specified in the request for review. The person seeking review and the Commission shall be given written notice of the date, time and place of the review hearing at least ten (10) days before the hearing date. Notice to the person seeking review shall be given by first-class mail, postage prepaid, at the person's address stated in the appeal. No other notice need be given for such a hearing. The City Council may sustain the decision of the Commission if it finds that the Commission exceeded its jurisdiction or acted in an arbitrary or capricious manner. If City Council finds the Commission exceeded its jurisdiction or acted in an arbitrary or capricious manner, the City Council will remand the appeal to the Commission for a redetermination within thirty (30) days. Such determination shall be limited to and consistent with the City Council's written findings. The appeal hearing shall be conducted as near as practicable according to the procedures set forth in Chapter 7 of Title I of this Code. The Commission's decision will be stayed until the City Council rules on the appeal.
- (b) Any person adversely affected after the Commission makes a final determination, after a review and decision by City Council, may seek judicial review by the District Court, Pueblo County, Colorado, in the manner provided in Rule 106(a)(4), of the Colorado Rules of Civil Procedure. A complaint seeking such review shall be filed in Pueblo District Court no later than thirty (30) days after the Commission's final decision.

SECTION 3.

Section 17-4-5, (5), c., of Title XVII of the Pueblo Municipal Code, as amended, is hereby modified by the addition of subsections 17-4-5, (5), c., 3., (a) and (b) to read as follows:

Sec. 17-4-5, (5), c., 3., Appeals.

- (a) Any person adversely affected by a decision of the Planning and Zoning Commission may appeal such decision to the City Council by filing with the City Clerk, within twenty (20) days after Commission's decision, a written request for review. Such appeal must specify in detail the provisions of the Commission's decision the person contends are arbitrary or capricious or is beyond the jurisdiction of the Commission, and the supporting grounds and reasons together with a copy of the Commission's decision. The City Council shall conduct a hearing to review the provisions asserted to be arbitrary or capricious or beyond the jurisdiction of the Commission, and the supporting grounds and reasons specified in the request for review. The person seeking review and the Commission shall be given written notice of the date, time and place of the review hearing at least ten (10) days before the hearing date. Notice to the person seeking review shall be given by first-class mail, postage prepaid, at the person's address stated in the appeal. No other notice need be given for such a hearing. The City Council may sustain the decision of the Commission if it finds that the Commission exceeded its jurisdiction or acted in an arbitrary or capricious manner. If City Council finds the Commission exceeded its jurisdiction or acted in an arbitrary or capricious manner, the City Council will remand the appeal to the Commission for a redetermination within thirty (30) days. Such determination shall be limited to and consistent with the City Council's written findings. The appeal hearing shall be conducted as near as practicable according to the procedures set forth in Chapter 7 of Title I of this Code. The Commission's decision will be stayed until the City Council rules on the appeal.

- (b) Any person adversely affected after the Commission makes a final determination, after a review and decision by City Council, may seek judicial review by the District Court, Pueblo County, Colorado, in the manner provided in Rule 106(a)(4), of the Colorado Rules of Civil Procedure. A complaint seeking such review shall be filed in Pueblo District Court no later than thirty (30) days after the Commission's final decision.

SECTION 4.

Section 17-4-5, (5), d., of Title XVII of the Pueblo Municipal Code, as amended, is hereby modified by the addition of subsections 17-4-5, (5), d., 3., (a) and (b) to read as follows:

Sec. 17-4-5, (5), d., 3., Appeals.

- (a) Any person adversely affected by a decision of the Planning and Zoning Commission may appeal such decision to the City Council by filing with the City Clerk, within twenty (20) days after Commission's decision, a written request for review. Such appeal must specify in detail the provisions of the Commission's decision the person contends are arbitrary or capricious or is beyond the jurisdiction of the Commission, and the supporting grounds and reasons together with a copy of the Commission's decision. The City Council shall conduct a hearing to review the provisions asserted to be arbitrary or capricious or beyond the jurisdiction of the Commission, and the supporting grounds and reasons specified in the request for review. The person seeking review and the Commission shall be given written notice of the date, time and place of the review hearing at least ten (10) days before the hearing date. Notice to the person seeking review shall be given by first-class mail, postage prepaid, at the person's address stated in the appeal. No other notice need be given for such a hearing. The City Council may sustain the decision of the Commission if it finds that the Commission exceeded its jurisdiction or acted in an arbitrary or capricious manner. If City Council finds the Commission exceeded its jurisdiction or acted in an arbitrary or capricious manner, the City Council will remand the appeal to the Commission for a redetermination within thirty (30) days. Such determination shall be limited to and consistent with the City Council's written findings. The appeal hearing shall be conducted as near as practicable according to the procedures set forth in Chapter 7 of Title I of this Code. The Commission's decision will be stayed until the City Council rules on the appeal.
- (b) Any person adversely affected after the Commission makes a final determination, after a review and decision by City Council, may seek judicial review by the District Court, Pueblo County, Colorado, in the manner provided in Rule 106(a)(4), of the Colorado Rules of Civil Procedure. A complaint seeking such review shall be filed in Pueblo District Court no later than thirty (30) days after the Commission's final decision.

SECTION 5.

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 6.

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: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: George Hypolite, City Attorney

SUBJECT: AN ORDINANCE AMENDING CHAPTER 10 TO TITLE XI AND CHAPTER 1 OF TITLE XV OF THE PUEBLO MUNICIPAL CODE REGULATING COMMERCIAL VEHICLE OPERATIONS WITHIN THE CITY

SUMMARY:

The following ordinance would regulate the operation of commercial vehicles on any street within the City and require such operations to be compliant with C.R.S. § 42-4-235.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

This ordinance allows enforcement by Pueblo Police department in case a motor carrier drops off or picks up persons at a location that is not licensed or permitted by the PUC. This also allows for a penalty if the motor carrier is in violation. The fines will be allocated towards road maintenance and repairs.

FINANCIAL IMPLICATIONS:

Not applicable to this Ordinance.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If the City Council chooses not to approve this ordinance, motor carrier operations will not be subject to enforcement under the Pueblo Municipal Code.

RECOMMENDATION:

Councilor Regina Maestri recommends passage of this Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 10 TO TITLE XI AND CHAPTER 1 OF TITLE XV OF THE PUEBLO MUNICIPAL CODE REGULATING COMMERCIAL VEHICLE OPERATIONS WITHIN THE CITY

WHEREAS, the City, as a Colorado home rule municipality, is authorized to exercise all powers of self-government, as set forth in article 20, section 6 of the Colorado Constitution. Included within these general powers of self-government are the powers necessary, requisite or proper for the government and administration of its local and municipal matters; and

WHEREAS, the City's Home Rule Charter, at section 1-3, specifically provides that the city shall have all powers granted to municipalities under the state statutes, as defined therein. These powers specifically include: (1) the general police powers enumerated in C.R.S. § 31-15-401; and (2) the powers to regulate businesses enumerated in C.R.S. § 31-15-501; and

WHEREAS, the City in order to preserve the health, welfare, and safety of its citizens, City Council has determined it is necessary to regulate the intra-City operations of commercial vehicles; NOW; THEREFORE;

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

Section 15-1-16 is hereby added to Chapter 1 of Title XV of the Pueblo Municipal Code to read as follows: (brackets indicate matter being deleted, underscoring indicates new matter being added)

Sec. 15-1-16 Regulation of commercial vehicles.

(a) No person [or] motor carrier shall operate a commercial vehicle on any street within the City unless such vehicle is in compliance with C.R.S. § 42-4-235, as amended, and the rules and regulations promulgated thereunder.

(b) This Section may be enforced by any law enforcement officer who meets the inspector qualifications set forth in C.R.S. § 42-4-235, as amended, and the rules and regulations promulgated thereunder.

(c) It shall be unlawful for any person to operate a motor vehicle in violation of subsection (a) of this Section.

(d) Any person who fails to comply with any provision of this Section shall be guilty of a violation of this Code and, on conviction thereof, shall be punished by a fine as specified in Section 1-4-20 of this Code.

(e) fines collected based on conviction under this section shall be dedicated and used solely for road, right of way, and other transportation improvements.

SECTION 2.

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

SECTION 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: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: George Hypolite, City Attorney

SUBJECT: AN ORDINANCE FOR SAFE USE OF PUBLIC PROPERTY TO LIMIT
PUBLIC CAMPING AND PROHIBIT TEMPORARY STRUCTURES ON
PUBLIC PROPERTY WITHIN THE CITY OF PUEBLO, COLORADO

SUMMARY:

The following ordinance limits public camping and prohibits the use of temporary structures for housing on public property within the City of Pueblo.

PREVIOUS COUNCIL ACTION:

On or about April 26, 1982, the Pueblo City Council approved Ordinance Number 4964, which made it unlawful for any person to erect any booth tent or other structure in any park by any private person for any purpose, except by written permission.

BACKGROUND:

This ordinance applies to all encampments located on public property where camping is not expressly authorized by the City. This ordinance establishes laws and penalties set forth to prevent health and safety hazards brought on by hazardous wastes such as trash and human feces from its occupants. The city must be entrusted to protect the environment of city land and real estate owned by the people. Occupants of the illegal camps will have the option to move into sheltered bed space or face a fine up to \$1,000.

FINANCIAL IMPLICATIONS:

Fine revenue from this ordinance will be included within the City's general fund.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If the City Council chooses not to approve this ordinance, camping in public parks will still be unlawful under the municipal code.

RECOMMENDATION:

Councilor Regina Maestri recommends passage of this Ordinance.

ATTACHMENTS:

None



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Pueblo Urban Renewal Authority

SUBJECT: AN ORDINANCE MAKING CERTAIN LEGISLATIVE FINDINGS AND APPROVING THE BLUFFS PHASE 1 URBAN RENEWAL PLAN

SUMMARY:

This ordinance makes certain legislative findings, establishing the Bluffs Phase 1 Urban Renewal Area and approving the Bluffs Phase 1 Urban Renewal Plan proposed by the Pueblo Urban Renewal Authority (PURA) to alleviate blight and conduct a study to identify blighting factors within the proposed Bluffs Phase 1 Area in conjunction with the Bluffs Phase 1 development project.

PREVIOUS COUNCIL ACTION:

On January 8, 2024, City Council, through Resolution No. 3297 approved the commissioning of a Conditions Survey to determine if the statutory blight factors exist within the proposed Area.

BACKGROUND:

The Bluffs Phase 1 area encompasses five (5) parcels and approximately 3.3 acres, including Right-of-Way (ROW). The area is characterized by vacant land clustered atop a steep bluff within City limits, overlooking the Arkansas River. Public surface infrastructure, from streets and alleyways to the trails leading down to the River, is in disrepair. The survey area is also within "Superfund Proximity" according to the EPA's Environmental Justice Indexes website. Currently, the site is vacant. The Urban Renewal Plan contemplates using tax increment financing by PURA to alleviate blight and facilitate redevelopment of the Urban Renewal Area through public improvements, redevelopment agreement(s), redevelopment and rehabilitation, and cooperative agreements with the City and other public bodies.

The City has entered into a development agreement with a private developer in this area to provide for necessary public improvements.

Neither PURA nor the Plan indicates whether it intends to finance the amounts necessary to complete the proposed Urban Renewal Project. As a result, PURA will adequately finance, put agreements in place to finance, or reimburse through a cooperation agreement any additional infrastructure and services required to serve development within the Area for the period in which all or a portion of the property taxes described in C.R.S. § 31-25107 (9) (a) (II) and levied by taxing entities are paid to the Authority. To the extent excess tax increment revenue is available after debt service or other obligations, PURA will refund such excess revenue to the corresponding taxing entities in proportion to their contributions. PURA anticipates the improvements made will increase the valuation of the Urban Renewal Area by \$ \$2,564,580. PURA requests a maximum tax increment revenue pledge of \$6,584,000 from all the taxing entities within the Urban Renewal Area.

FINANCIAL IMPLICATIONS:

PURA is requesting the City pledge up to a maximum of \$1,053,588 in potential property tax revenue over the next twenty-five (25) years to finance the Urban Renewal Project contemplated in the Bluffs Phase 1 Urban Renewal Plan. The Public Improvements in the area are anticipated to cost \$575,720.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission determined the proposed project meets the requirements of the City's Comprehensive Plan.

STAKEHOLDER PROCESS:

The PURA has been in contact with and presented for approval the Urban Renewal Plan to the other taxing entities within the proposed Urban Renewal Area.

ALTERNATIVES:

A "no action" alternative would prevent the designation of the Bluffs Phase 1 Renewal Area, reject approval of the Bluffs Phase 1 Urban Renewal Plan, prohibit PURA's involvement in the redevelopment of the Bluffs Phase 1 Development Project, and require a vote of the people for any tax increment financing.

RECOMMENDATION:

Approval of the Ordinance

ATTACHMENTS:

1. Ordinance (Bluffs Phase 1 Urban Renewal Area)
2. PURA_Bluffs_Conditions_Survey_5.12.2023
3. The Bluffs URA Plan (Final)

ORDINANCE NO. ____

AN ORDINANCE MAKING CERTAIN LEGISLATIVE FINDINGS
AND APPROVING THE BLUFFS PHASE 1 URBAN RENEWAL
PLAN

WHEREAS, by Resolution No. 3297, the City Council of Pueblo ("City Council") authorized and directed the Pueblo Urban Renewal Authority to study an area (the "Area") of Pueblo ("City") to assess if blighting factors exist in the Area and if appropriate, recommend that the City Council consider one or more redevelopment plans to remove any such conditions of blight;

WHEREAS, the Authority contracted with Pioneer Development Company (the "Consultant") to conduct a conditions survey of the Area, which is more particularly described in Exhibit A, attached to and incorporated herein, to determine if the Area contains factors included in the definition of "blighted area" in the Colorado Urban Renewal Law, Sections 31-25-101, *et seq.*, C.R.S., ("Act");

WHEREAS, the Consultant prepared, submitted, and presented to the Authority and City Council a document entitled "Bluffs Phase 1 Urban Renewal Plan Conditions Survey" ("Survey") dated April 9, 2023, which describes in detail the conditions in the Area and is incorporated herein by this reference;

WHEREAS, the Consultant prepared, and the Authority has presented to the City the proposed Bluffs Phase 1 Urban Renewal Plan ("Plan"), attached hereto and incorporated herein; and

WHEREAS, the City Attorney has reviewed the Plan and approves the Plan as to form, as attached hereto and incorporated herein;

WHEREAS, the aforesaid Plan is a matter of public record in the custody of the City Clerk and is available for public inspection during business hours of the City;

WHEREAS, notice of the public hearing on the Plan was published as required by Section 31-25-107(3), C.R.S., at least thirty (30) days prior to the public hearing;

WHEREAS, the City Council has taken reasonable efforts to provide written notice of the public hearing to all property owners, residents, and business owners in the area included in the Plan ("Urban Renewal Area"), informing them of the public hearing at least thirty (30) days prior to the public hearing;

WHEREAS, the City's Planning and Zoning Commission has reviewed the Plan and determined the Plan complies with the City's Comprehensive Plan for development within the City ("Comprehensive Plan"), which is the general plan for the development of the City;

WHEREAS, the Plan contains provisions that anticipate the allocation of property tax increment revenues derived from the levies of taxing entities that levy property taxes in the proposed Urban Renewal Area ("Taxing Entities");

WHEREAS, the Authority has delivered to the Taxing Entities (a) the notice of the public hearing, (a) the Plan, and (c) a copy of an impact report ("Impact Report") prepared by the Consultant that describes the burdens and benefits of the Plan on the revenues and services of such Taxing Entities;

WHEREAS, based on the Impact Report, the Authority has reached an agreement with the Taxing Entities regarding estimated impacts on services of the Taxing Entities associated solely with the Plan as required by Section 31-25-107(9.5) of the Act; and

WHEREAS, on January 22, 2024, the City Council conducted a public hearing and reviewed said Plan pursuant to the procedural and notice requirements of the City Charter and the Act, and the City Council, having considered the evidence presented in support of and in opposition to the Plan, the Survey, the City's Comprehensive Plan, and staff recommendations and so having considered the legislative record and given appropriate weight to the evidence.

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

SECTION 1.

The Urban Renewal Area described in the Plan is found and declared to be a blighted area as defined in the Act. This is a legislative finding by the City Council based upon the Survey and other evidence presented to the City Council.

SECTION 2.

The boundaries of the Urban Renewal Area have been drawn as narrowly as the City Council determines feasible to accomplish the planning and development objectives of the Plan.

SECTION 3.

The Plan, Impact Report, and notice of the public hearing have been submitted to the Taxing Entities, including the Board of County Commissioners of Pueblo County, Colorado ("County"), together with the information required by § 31-25-107 (3.5) and (9.5) of the Act. The Plan will remediate conditions of blight in the Urban Renewal Area.

SECTION 4.

To conform with the representations made to the Taxing Entities by the Authority, the Plan shall be amended as follows:

(a) Section V of the Plan shall be amended and replaced as follows:

- a. PROJECT ACTIVITIES - The following provisions shall apply to the Area. In accordance with the Act, the Authority may undertake these activities directly or, to the extent authorized by applicable law, contract with third parties to do so.

- i. Public Participation - The Authority is committed to public participation in pursuit of the objectives of this Urban Renewal Plan through discussion with the appropriately registered neighborhood organizations and will invite public comment on the Project at multiple public meetings with members of appropriately registered neighborhood organizations in attendance. Pursuant to policies adopted by the Authority and to the extent provided in Colorado Open Records Act, Colo. Rev. Stat. Title 24, Article 72, Part 2, as the same may be amended from time to time, the Project's plans and proposals will be made available to the public.
- ii. Public Improvements – The Authority may undertake certain actions to eliminate blight and make the Urban Renewal Area and its environs more attractive for private investment. The Authority may or may cause to be installed, constructed, and reconstructed public improvements in furtherance of the Plan, which may include, without limitation, streets, sidewalks, alleys, utility infrastructure, sanitary sewer, water infrastructure, utility service facilities, parks, streetscapes, pedestrian corridors, bicycle facilities, and parking facilities. The Authority also may or may cause to be installed, constructed, and reconstructed any other authorized improvements in furtherance of the Plan, which may include, without limitation, façade improvements, public access ways, public gathering areas, and other improvements. Any such construction or improvements shall be performed in accordance with the City's Comprehensive Plan, City specifications and upon obtaining required City permits and compliance with all applicable laws.
- iii. Redevelopment Agreements – The Authority or the City is authorized to enter into one or more Redevelopment Agreements with developers,

landowners, and other entities determined to be necessary or desirable to carry out the purposes of this Plan. Such Redevelopment Agreements may contain such terms and provisions as shall be deemed necessary or appropriate by the Authority and/or the City for the purpose of undertaking the activities contemplated by this Plan or the Act and may further provide for such undertakings by the Authority, including financial assistance (subject to the limitations contained herein), as may be necessary for the achievement of the objectives of this Plan or as may otherwise be authorized by the Act.

- iv. Redevelopment and Rehabilitation – Redevelopment and rehabilitation actions within the Urban Renewal Area may include such undertakings and activities as are in accordance with this Plan and the Act, including without limitation: (i) renovation and enhancement of buildings and improvements; (ii) the installation, construction, relocation and reconstruction of public and private improvements; (iii) the carrying out of plans for a program through voluntary action for the repair, alteration, and rehabilitation of buildings or other improvements in accordance with this Plan; and (iv) the taking of such other actions to eliminate unhealthy, unsanitary or unsafe conditions, eliminate obsolete or other uses detrimental to the public welfare, or otherwise remove or prevent the spread of blight or deterioration. In the absence of any Redevelopment Agreement, development, redevelopment, and rehabilitation in furtherance of the Plan must be undertaken in accordance with, as applicable, the building and zoning regulations and other applicable ordinances of the City.
- v. Cooperation Agreements – For the purposes of planning and carrying out this Plan in the Area, the Authority may enter into one or more cooperation

agreements with the City, County, or other public bodies. Without limitation, such agreements may include project financing and implementation; design, location, and construction of public improvements; and any other matters required to carry out this Project. It is recognized that cooperation with the City, County, and other public and private bodies may be required to coordinate such issues as the design, construction, maintenance, operation, and timing of public and private improvements within the Area to properly and efficiently carry out the goals and objectives of this Plan.

(b) Section VI of the Plan shall be amended and replaced as follows:

a. PROJECT FINANCING –

- i. Financing Methods: The Authority is authorized to finance the Project and other activities by several methods, including, but not limited to, the following: appropriations from the City; Property Tax Increment paid pursuant to the Cooperation Agreement; interest income; federal loans or grants; or any other available source of revenue allowable under the provisions of the Act or other applicable laws. The Authority anticipates the Public Improvements anticipated under the Plan will cost approximately \$689,722. The Urban Renewal Plan contemplates that a primary method of financing this project shall be using property tax increment. The City Council will consider the authorization of financing of tax increments when the Pueblo Urban Renewal Authority submits a plan of finance outlining the proposed amounts and purpose for which the tax increments are to be used. Upon City Council approval, the tax increment will be distributed in accordance with the tax increment financing provisions of Section 31-25-107 (9), C.R.S. which is by this reference incorporated herein as if set forth in its entirety. If there is any conflict between the Act and this Urban

Renewal Plan, the provisions of the Act shall control, and the language in the Plan will be automatically deemed to conform to the statute.

In addition, subject to the City's approval under §31-25-107 (7), the Authority is authorized to issue other obligations, incur indebtedness, loans, or advances as contemplated by the Act in an amount sufficient to carry out all or any part of the Project. The principal of, interest on, and any premiums due in connection with such bonds, indebtedness, loans or advances may be paid from Property Tax Increment or any other funds, revenues, assets or properties legally available to the Authority.

- ii. Cooperation Agreements between the City and the Authority: Before the Authority enters a Redevelopment Agreement, the City and the Authority shall enter a Cooperation Agreement.
- iii. Tax Increment Financing: This Plan contemplates that the primary method of financing the Project and other activities by the Authority shall be the use of Property Tax Increment financing under the tax increment financing provisions of C.R.S. § 31-25-107(9), as amended from time to time, which is by this reference incorporated herein as if set forth in its entirety, subject to City Council approval as set forth herein. In accordance with the Act, the Authority notified the governing bodies of each other public body whose Property Tax Revenues would be allocated under this Plan and negotiated agreements governing the types and limits of tax revenues of each taxing entity to be allocated under the Plan. The Authority has or shall enter into agreements with each taxing entity addressing, without limitation, estimated impacts of the Plan on district services associated solely with the Plan. The allocated shared tax revenues governed by each agreement shall be limited to all or any portion of the taxes levied upon taxable property

by the public body within the area covered by the Plan. If there is any conflict between the Act, a Cooperation Agreement, a district agreement and this Plan, the provisions of the Act shall control. For the Urban Renewal Area, all Property Taxes levied after the effective date of the approval of the Urban Renewal Area upon the taxable property in the Urban Renewal Area each year by or for the benefit of the City shall be divided as follows:

1. In the case of a Property Tax Increment Area, that portion of the Property Tax Revenues that are produced by the levy at the rate fixed each year by or for each public body upon the valuation for assessment of taxable property in the Urban Renewal Area last certified prior to the effective date of approval of such Area in respect of this Plan or, as to an area later added to the Area, the effective date of the modification of this Plan specifying such Area shall be paid into the funds of each such public body as are all other taxes collected by or for such public body.
2. Except as the Authority may legally provide otherwise under the Act, that portion of the Property Tax Revenues in excess of the amounts described in paragraph above shall be allocated to, and when collected, paid into a special fund of the Authority, and may be irrevocably pledged by the Authority for the payment of the principal of, premium, if any, and interest on any bonds of, loans or advances to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the Authority to finance or refinance, in whole or in part, the Project. Unless and until the Property Tax Revenue in excess of the amount as provided in paragraph I(3)(a) above, all of the Property Tax Revenues for the

Urban Renewal Area shall be paid into the funds of the respective public bodies.

3. When such bonds, loans, advances, and indebtedness, if any, including interest thereon and any premiums due in connection therewith, have been paid, with respect to a tax increment but in no event later than twenty-five (25) years following the effective date such Urban Renewal Area is included in this Plan approved by City Council, the total Property Tax Revenues in such Area shall be paid into the funds of the City and the applicable public bodies, respectively. To the extent any tax increment exceeds the required amount of debt service for any such bonds, loans, advances, and indebtedness, including interest thereon and any premiums due in connection therewith, within any given year, such excess shall be refunded to the applicable public bodies, in proportion to their respective mill levy.
 4. In the event there is a general reassessment of taxable property valuations in the City, including all or part of the Urban Renewal Area, the portions of valuations for assessment o attributable thereto under this Part VI shall be proportionately adjusted in accordance with such reassessment or change.
- b. The Authority and the City may, by Cooperation Agreement or other agreement, provide for the method by which Property Tax Increment shall be allocated and paid to the Authority pursuant to the provisions of this Plan and the Act. Such agreements, and similar agreements between the Authority and other public bodies, may provide additional assistance by the City and cooperation between the Authority and the City in support of the Project as may be more fully set forth

in the provisions of such Cooperation Agreement or other agreement.

(c) Section VII of the proposed Plan shall be amended and replaced as follows:

This Plan may be modified pursuant to the provisions of the Act governing such modifications, including but not limited to § 31-25-107, C.R.S. It is explicitly understood all proposed modifications shall be submitted to the City Council for approval. Minor Modifications, those not defined as substantial under the Act, shall be reviewed and approved by the City Council through resolution. Substantial Modifications must be submitted to City Council and approved with the same formalities as this Plan. Substantial Modifications include modifications to the Plan regarding land area, land use, authorization to collect incremental tax revenue, the extent of the use of tax increment financing, the scope or nature of the urban renewal project, the scope or method of financing, design, building requirements, timing, or procedure, or substantial clarification to parts of this Plan lacking specificity with respect to the urban renewal project or any financing.

SECTION 5.

Pueblo City Schools (School District No. 60) has been permitted to participate in an advisory capacity with respect to the inclusion in the Plan of the tax allocation provisions authorized by Section 31-25-107(9) of the Act.

SECTION 6.

The Urban Renewal Area contains vacant land, and it is not expected that any relocation of individuals and families will be required in connection with the Plan, therefore, to the extent that any relocation may be required, this activity shall substantially modify the Plan. A feasible method exists for relocating individuals and families to decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such individuals and families.

SECTION 7.

The Urban Renewal Area contains vacant land, it is not expected that any relocation of business concerns will be required in connection with the Plan. To the extent that any such

relocation may be required, this activity shall substantially modify the Plan. A feasible method exists for relocating such business concerns in the Urban Renewal Area or other areas that are not generally less desirable with respect to public utilities and public and commercial facilities.

SECTION 8.

The City Council has taken reasonable efforts to provide written notice of the public hearing prescribed by § 31-25-107 (4) (c) of the Act to all property owners, residents, and owners of business concerns in the proposed Urban Renewal Area at their last known addresses at least thirty (30) days prior to the public hearing on the Plan.

SECTION 9.

§ 31-25-107 (4) (d) of the Act does not apply because no more than 120 days have passed since the commencement of the only public hearing on the Plan.

SECTION 10.

§ 31-25-107 (4) (e) of the Act does not apply because the City Council did not fail to previously approve this Plan.

SECTION 11.

The Plan conforms with the City's Comprehensive Plan, which is the general plan for the development of the City as a whole.

SECTION 12.

The Plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the Urban Renewal Area described in the Plan by private enterprise.

SECTION 13.

The entire Urban Renewal Area is within the corporate limits of the City. Construction and maintenance of public improvements and provision of services in the Urban Renewal Area will be the primary responsibility of the Authority and private enterprise. Any impacts on the services or revenues of the Taxing Entities will be offset by new revenues not now being collected by the

Taxing Entities and directly produced because of the Plan and subsequent redevelopment of the Urban Renewal Area and adjacent property outside of the Urban Renewal Area.

SECTION 14.

The Urban Renewal Area described in the Plan does not consist of open land within the meaning of § 31-25-107 (5) and (6) of the Act. Therefore, the findings and determinations set forth in such sections of the Act do not apply and are not required.

SECTION 15.

The Authority is not authorized to acquire property by exercising eminent domain.

SECTION 16.

The Bluffs Phase 1 Urban Renewal Plan has been duly reviewed and considered and is hereby approved as amended herein. The Authority is hereby authorized to take any and all actions pursuant to the Act to carry out the Plan.

SECTION 17.

The officers and staff of the City are authorized and directed to take all actions necessary, appropriate or required to implement the provisions of this Ordinance.

SECTION 18.

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

ATTESTED:

City Clerk



PIONEER
DEVELOPMENT
COMPANY

we find the way

The Bluffs Phase I Urban Renewal Plan Conditions Survey

Pueblo Urban Renewal Authority

April 9, 2023



April 9, 2023

Pueblo Urban Renewal Authority
City of Pueblo, Colorado

Dear Pueblo URA Board of Commissioners,

This Conditions Survey is intended to assist the Pueblo Urban Renewal Authority (PURA) with identifying and cataloguing conditions that are arresting sound development throughout a defined survey area. This area is named the “The Bluffs Phase I Urban Renewal Plan” (The Project).

The Project will encompass five (5) parcels and approximately 3.3 acres, including Right-of-Way (ROW). The area is characterized by vacant land clustered atop a steep bluff within City limits, overlooking the Arkansas River. Public surface infrastructure, from streets and alleyways to the trails leading down to the River, are in disrepair. The survey area is also within “Superfund Proximity” according to the EPA’s Environmental Justice Indexes website¹. The survey area scores in the highest percentile for proximity, indicating that environmental contamination is likely. In addition to these physical characteristics, the surveyed parcels are irregularly shaped and will require assemblage and right-of-way vacations to achieve new development.

The Conditions Survey evaluates this area for the presence of statutorily defined “blighted area factors” (blighting factors). These factors are defined by Colorado’s Urban Renewal Law under C.R.S. 31-25-103(2) and in general, mean conditions that impair or arrest the sound growth of a municipality. The Conditions Survey locates, identifies, and describes each statutorily defined blighting factor found to exist within the proposed plan area. Blighting factors have also been mapped to illustrate the location of these observed conditions and the parcels they impact.

Based upon field observations and analysis, this report finds that the surveyed area meets Colorado Urban Renewal Law’s statutory minimum of blighting factors required to designate the proposed The Bluffs Phase I Urban Renewal Plan as an urban renewal project eligible for urban renewal activities.

Sincerely,

Andrew Arnold, AICP
Founder | Principal
Pioneer Development Company
Durango, Colorado

CC: Jerry Pacheco and Cherish Deeg

¹ <https://ejscreen.epa.gov/mapper/>



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Executive Summary

The Bluffs Phase I Urban Renewal Plan

Conditions Survey:

The City of Pueblo's Urban Renewal Authority (PURA) is evaluating a specific area for Urban Renewal projects and activities. The subject area is centrally located within Pueblo's city limits, on the West side of the Arkansas River near West 4th Street (State Highway 96). The survey area includes 5 parcels along Pearl Street, atop a bluff overlooking the Arkansas River. These parcels encompass ~3.3 acres including public right-of-way and are zoned R-5 residential. The subject area is characterized by vacant land, steep topography, deteriorating or missing infrastructure, and irregularly shaped parcels. The survey area is proximal to the "Colorado Smelter" EPA Superfund site and may require environmental remediation. The survey area's characteristics make future development challenging and is the reason why PURA is evaluating this site for Urban Renewal treatment.

Before an area can be eligible for Urban Renewal treatment, Colorado's Urban Renewal Law requires a Conditions Survey be completed that catalogue statutorily defined "blighted area factors" (blighting factors). The Conditions Survey is one of three statutorily required reports needed to establish an Urban Renewal Plan around a specific area of a municipality.

An Urban Renewal Plan area, also known as an urban renewal project, is defined by state statute to mean "a slum area, or blighted area, or combination thereof, which the local governing body designates as appropriate for an urban renewal project" (C.R.S. 31-25-103). The process to designate an urban renewal plan is organized under Colorado Urban Renewal Law (C.R.S. 31-25-101 to 116).

For an Urban Renewal Plan to be established, a specific geographic area within the community must be found to exhibit certain conditions. These are conditions that, in general, are arresting the sound growth of a municipality. This could include conditions that impair a municipality's growth, retards housing development and accommodations, or constitutes a liability for economic or community development. Statute describes these conditions as a "menace to public health, safety, morals, and welfare" and defines these conditions as eleven separate factors in C.R.S. 31-25-103.2). These factors must be cataloged before urban renewal projects and activities can commence.

A conditions survey does not create a new Urban Renewal Plan or Urban Renewal Project. The Conditions Survey is merely a starting point for that process, one that is required before PURA can establish The Bluffs Phase I Urban Renewal Plan. The Conditions Survey's purpose is to evaluate the proposed Plan area and determine if it meets the statutorily required threshold of blighted area factors. Four (4) of these factors must be identified before an Urban Renewal Plan can be established and adopted. If all property owners and tenants consent to being included in the Urban Renewal Plan, then only 1 blighted area factor needs to be identified.

The proposed Urban Renewal Plan area was carefully surveyed using a holistic analysis. Observations were taken during a field visit that identified the presence of statutorily defined blighting factors throughout the area. These observations were supplemented with background research on the site and market characteristics. This report thoroughly reviewed both City and County planning documents, as

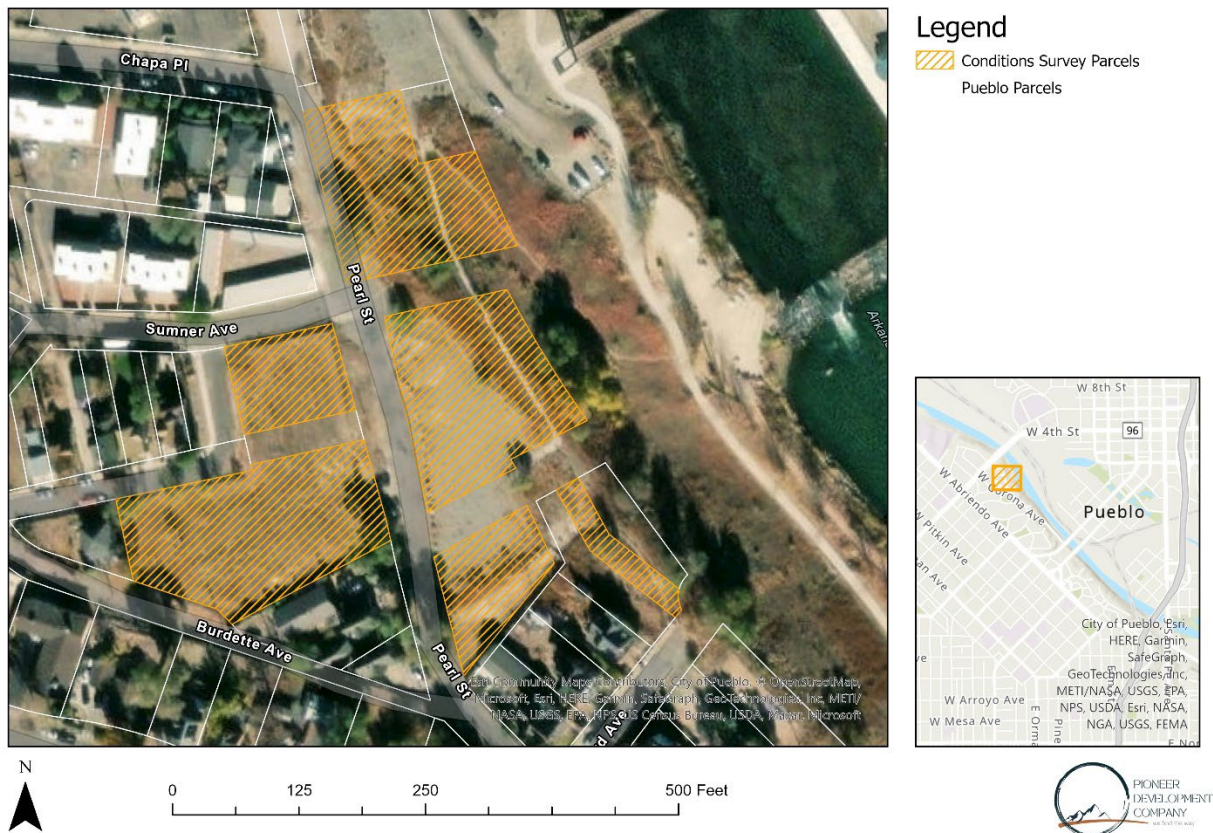
well as assessment information that could help identify blighting factors that were not easily observable during the site visit.

The Conditions Survey's conclusion is that the proposed The Bluffs Phase I Urban Renewal Plan area exhibits the necessary number of blighting factors to make it eligible as an Urban Renewal Plan according to state statute. This Conditions Survey identified seven (7) blighting factors within the area, listed in the table below:

Conditions Survey – Blighting Factors Cataloged	
Blighted Area Factor # (C.R.S. 31-25-103.2 List Label)	Definition
Factor 2 (b)	Predominance of Defective or Inadequate Street Layout
Factor 3 (c)	Faulty Lot Layout in Relation to Size, Adequacy, Accessibility, or Usefulness
Factor 4 (d)	Unsanitary or Unsafe Conditions
Factor 5 (e)	Deterioration of Site or Other Improvements
Factor 6 (f)	Unusual Topography or Inadequate Public Improvements or Utilities
Factor 10 (j)	Environmental Contamination of Buildings or Property
Factor 11 (k.5)	The Existence of Health, Safety, or Welfare Factors Requiring High Levels of Municipal Services or Substantial Physical Underutilization or Vacancy of Sites, Buildings, or Other Improvements

Conditions Survey Summary

The Bluffs Conditions Survey Map



Survey Area

The proposed Bluffs Phase I Urban Renewal Plan area includes 5 parcels encompassing 3.3 acres.² The area is located within the Blocks Neighborhood and currently zoned R-5 Residential. This zoning allows for higher density residential development and office space, among other uses. This survey area includes residential assessed property that is characterized by vacancy, lack of infrastructure, irregular parcel shapes, and potential environmental contamination. This survey area has been strategically drawn to include parcels may attract new investment or redevelopment. Public right-of-way that would need upgrading or would benefit from urban renewal treatment will also be considered in the Plan's final boundary.

Area Description

The proposed Urban Renewal Plan targets an area within Pueblo's city limits, situated on a bluff overlooking the Arkansas River. The survey area includes five parcels that are irregularly shaped and arranged along Pearl Street. There is a former pedestrian path connecting the bluff with the Arkansas River Path, but this has fallen into disrepair. Accessing the area by vehicle requires travelling from West

² Acreage estimate includes Public Right of Way e.g. Roads and Alleys

4th Street to either Chapa Place, or West Corona Avenue to Sumner. The area is part of the Blocks Neighborhood and is within Tax Area 60B.

Despite the area being zoned as “R-5 Residential”, there is no development on the site. Each parcel is vacant, and there are no building improvement assessments according to the Pueblo County Assessor’s database. The properties within the survey area are largely dirt or gravel, with occasional trails crisscrossing the area. Public infrastructure, especially Pearl Street, needs repair. Trash and debris was also scattered throughout the site, despite the fact that the owner pays to have it removed monthly. Debris piles are visible throughout the area.

The site is also identified within the EPA’s Environmental Justice Screening database. According to this database and mapping program, the entire survey area is “In Proximity to a Superfund” Site. The Colorado Smelter Superfund site is southeast of the Plan area. Although the superfund’s boundaries do not extend to this site, it is flagged by the EPA for potential contamination.

The Plan Area’s statistics are described in the table below:

Conditions Survey Land Use Summary		
Area Statistics		
Total Parcel Area (Acres)		2.393
Number of Parcels in Area		5
Assessment Category	Acreage	Percent
Residential	2.393	100%
Zoning	Acreage	Percent
R-5 Residential	2.393	100%
Assessed Value		Value
Total Actual Value		\$31,024
Total Assessed Value		\$3,850

Current Assessment of Plan Area

The Plan area includes 5 parcels. The total equalized assessed value (taxable value) of these parcels, according to the Pueblo County Assessor’s database, is \$3,850. These values reflect land values only, there are no building improvement values associated with the property. If this proposed Plan area is adopted, its effective Base Value (for property tax increment financing) is \$3,850.

Zoning Districts and Future Land Use

The Urban Renewal Plan survey boundary includes one (1) zoning district. All parcels are labeled as Urban Neighborhoods (UN) by the Pueblo Regional Comprehensive Plan’s Future Land Use Plan. These zoning districts include:

- R-5 Residential (R-5)

7

- **Urban Neighborhood (UN)**

These future land uses designations indicate the types of uses that the Comprehensive Plan envisioned throughout this Plan area. Although zoning will supersede the Future Land Use designations, these designations help inform this Survey of the Community’s expectations and desires for development within the subject area. The Conditions Survey is required to evaluate the conditions arresting sound development of the municipality, and the “sound development” is relative to the zoning and future land use designations adopted for these parcels and this area.

These future land uses designations indicate the types of uses that the Comprehensive Plan envisioned throughout this Plan area. Although zoning will supersede the Future Land Use designations, these designations help inform this Survey of the Community's expectations and desires for development within the subject area. The Conditions Survey is required to evaluate the conditions arresting sound development of the municipality, and the "sound development" is relative to the zoning and future land use designations adopted for these parcels and this area.



This Conditions Survey utilized a holistic methodology in determining whether blighting factors exist within the proposed The Bluffs Phase I Urban Renewal Plan survey boundary. This methodology included a detailed literature review of adopted plans and reports, an analysis of County Assessor records and GIS databases, and a field visit. Field work was supplemented by GIS technology that geolocated and recorded potential blighting factors throughout the survey area. Maps were created for each blighting factor identified within the survey area, illustrating which parcels contain, or are in proximity to, statutorily defined blighting factors. These maps represent the layered information gathering approach used in this report to ensure that each blighting factor was thoroughly analyzed.



Evaluation of Blighting Factors

Defining Blighting Conditions

Colorado Revised Statutes 31-25-103 states that for an Urban Renewal Plan area to be established, there must exist certain conditions known as “blighted area factors” (Blighting Factors). State statute defines eleven separate factors for blight. The law indicates that if four or more of these factors are found in an area of the municipality, that area may be declared blighted and qualify for urban renewal treatment³.

Blighted Area Factors Defined:

- a) Slum, deteriorated, or deteriorating structures
- b) Predominance of defective or inadequate street layout
- c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness
- d) Unsanitary or unsafe conditions
- e) Deterioration of site or other improvements
- f) Unusual topography or inadequate public improvements or utilities
- g) Defective or unusual conditions of title rendering the title nonmarketable;
- h) The existence of conditions that endanger life or property by fire or other causes
- i) Buildings that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities
- j) Environmental contamination of buildings or property
- k) The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements

These eleven factors help define the “conditions” that are arresting sound development of the municipality. Per statute, these factors give “reason” to declaring an area “blighted”, provided that a specific number of factors are identified. The presence of at least four of these conditions satisfies the state statute defining an area blighted.

This Conditions Survey will unpack each blighting factor to describe various real world “conditions” that indicate the presence of said factor. The presence of a condition within the survey boundary alone is not enough to make that area eligible for urban renewal activities. Rather, it is the culmination of four or more blighting factors which indicates that renewal activities should be applied within the proposed project area.

Blighting Factor were identified based on an objective analysis and urban renewal best practices. The following sections outline the blighting factors found within the survey area. Blighting factors that were not identified are excluded from this report.

³ In addition to this list, C.R.S. 31-25-103(2) lists a twelfth condition. This final condition only applies when there is unanimous agreement among affected property owners that their properties can be included in an Urban Renewal Area. In this occurrence, only one blighting factor from the list of eleven needs to be identified to declare the area blighted.

Factor (b) – Predominance of Defective or Inadequate Street Layout

Description:

This factor refers to surface transportation conditions throughout the survey area. Surface transportation conditions may include road surface quality, the location or existence of streets and sidewalks, multi-modal improvements, traffic safety infrastructure, ingress/egress locations, and emergency access considerations. If surface transportation conditions exist that negatively impact sound development, redevelopment, or threaten safety, the survey includes this factor in its catalogue.

Examples of this factor include:

- Inadequate street widths
- Lack of streets, dead ends
- Overall faulty layouts that impede vehicular access and internal circulation
- Inadequate Traffic Safety facilities
- Streets that exhibit high degrees of traffic or accidents
- Streets that are in need of repair or reconstruction
- Poor emergency access or active transportation

Findings

The Survey identified multiple conditions that are examples of this blighting factor. The surveyed area exhibited inadequate street networks, road surfaces in need of upgrade or repairs, poor emergency access or complete lack of access, and gaps in active transportation infrastructure.

The survey area parcels are located within a residential area near West 4th Street (State Highway 96). The site is accessed by a series of residential roads, with Pearl Street as its main through-street. These roads require reconstruction, especially Pearl Street. The road surface is characterized by heaving, potholes, and alligator cracking. The edge of pavement is indistinguishable from lot lines, with gravel and dirt blending in with the deteriorating asphalt.

The street network is also inadequate for future development. Pearl Street narrows to a small alley south of the survey area. It is likely that future development would need to vacate this ROW to allow for better programming of the site. If this rear access is vacated, it will likely require additional ROW improvements along Pearl Street to the North, as well as Chapa Place and Sumner Avenue.

Although trails currently exist throughout the site, these are informal and in need of repair. The major pedestrian facility, a sidewalk which extends down from the site to the Arkansas River Trail, is missing concrete and appears deteriorated. Sidewalks also fail to extend throughout the site along public right of way, despite being in an urbanized, residential neighborhood. These active transportation improvements are likely required for any future development, especially the pedestrian trail going down to the river.

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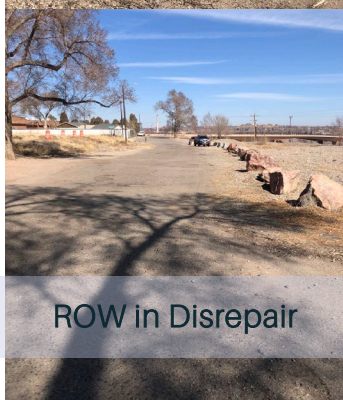
 BF2 - Defective Streets
 Conditions Survey Parcels
 Pueblo Parcels



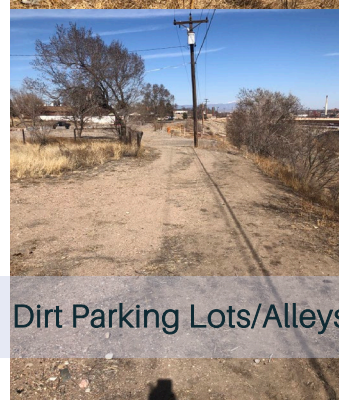
Potholes and Alligator Cracking



Unfinished Pedestrian Facilities



ROW in Disrepair



Dirt Parking Lots/Alleys

Factor (c) – Faulty Lot Layout in Relation to Size, Adequacy, Accessibility, or Usefulness

Description:

This factor refers to shapes, layout and sizes of lots that complicate sound development and the usefulness of the property. Common conditions that indicate this factors presence in a survey area includes:

- Impractical Lot Layouts
- Narrow, Irregular, or Oddly Shaped Parcels
- Parcels Too Large or Too Small to Facilitate Development
- Lot Configurations that Yield Unproductive Conditions on the Land as Exhibited by Misuse or Nonuse
- Easements or Setbacks that Yield Unproductive Conditions on the Land as Exhibited by Misuse or Nonuse.

Findings

The parcels within the survey area exhibit this blighting factor's conditions and examples. The parcels included within this survey are all irregularly shaped and have unproductive conditions, as exhibited by their vacancy and underutilization.

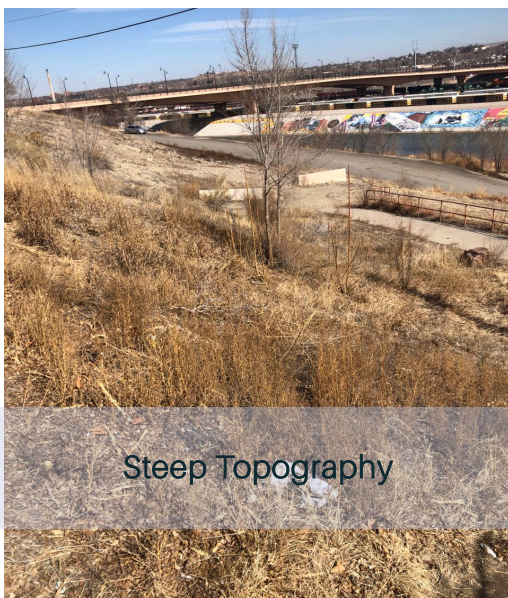
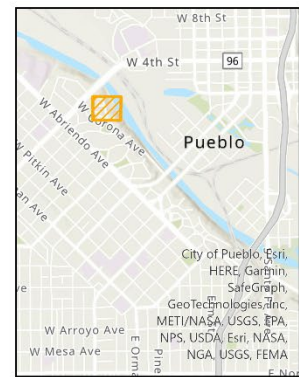
The GIS parcel boundaries throughout the survey area illustrates the existence of this blighting factor. Each parcel within the survey area is irregularly shaped, especially parcel number 536320001. Interviews with the property owner reveal that the site was assembled over time, and their still exists former ROW's and alleyways that divide the lots. A Lot Consolidation, as well as the vacation of ROW, is likely required to make the area suitable for redevelopment.

Many of the easternmost lots are also impractical due to topography. These properties extend over the bluff and down towards the Arkansas river. This area exhibits extremely steep grades unsuitable for development. It reduces the usefulness of these properties.

These impractical lot layouts and unproductive conditions as exhibited by nonuse on the land support the inclusion of this blighting factor.

0 125 250 500 Feet

 BF3 - Faulty Lots
 Conditions Survey Parcels
 Pueblo Parcels



Factor (d) – Unsanitary or Unsafe Conditions

Description:

This factor refers to a multitude of unsanitary, unsafe or hazardous conditions. The commonality is that these conditions contribute to hazards that could have an adverse effect on the health, safety or wellbeing of the public. This factor shares similarities to conditions one (1), five (5), eight (8), nine (9) and ten (10). Conditions that would justify the inclusion of this factor in an area may include:

- Floodplain or flood prone areas
- Poor storm water drainage areas
- Cracked or uneven sidewalks
- Hazardous materials
- Hazardous geology or soil conditions
- Dangerous traffic or pedestrian conditions
- High crime statistics
- Facilities are prone to fire dangers
- Environmental contamination
- Inadequate utility systems
- Water scarcity and lack of water and sewer infrastructure
- Evidence of vandalism or homelessness
- Steep topography
- Trash, debris and noxious weeds

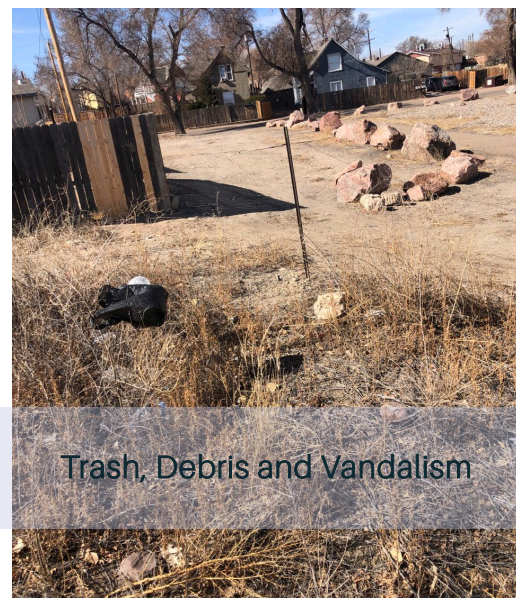
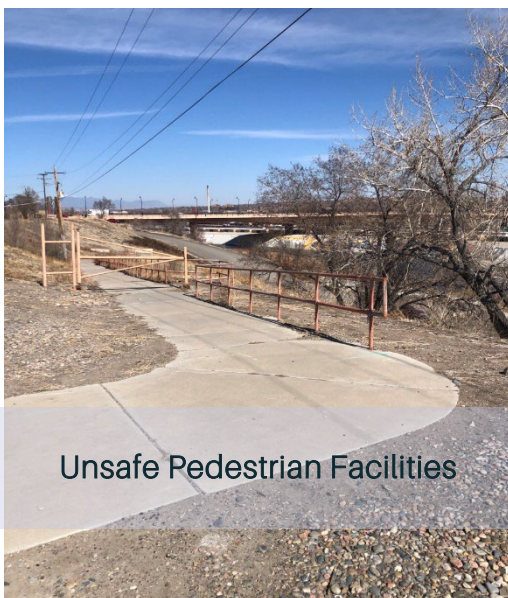
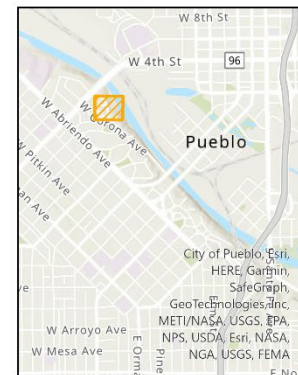
Findings

This factor includes multiple conditions identified within the survey area. The most significant condition is the potential environmental contamination of the soil, with the site being in such proximity to the Colorado Smelter, EPA Superfund Site. The EPA's Environmental Justice database indicates that the survey area is within the 95-100 percentile on many environmental contamination indexes. These indexes are enough to trigger both this blighting factor and factor 10 as outlined by statute. However, it is recommended that any future development perform a Phase 1 and Phase 2 ESA on the site to accurately determine which contaminants may need to be remediated.

In addition to the environmental contamination condition, the site exhibited other examples of this factor. Trash and debris were frequently identified around the property. Interviews with the owner indicated that vandalism and homelessness contribute to this condition. The owner explained that they pay over \$1,000 per month for trash cleanup, and yet the site continues to exhibit this condition.

There were other conditions identified within the survey area that are indicative of this factor. The gaps in pedestrian infrastructure, such as the sidewalks and the path to the river, also contribute to unsafe active transportation conditions. The topography of the site could also be considered an unsafe condition given its current, unmarked features.

 BF4 - Unsafe/Unsanitary Conditions
 Conditions Survey Parcels
 Pueblo Parcels



Factor (e) – Deterioration of Site or Other Improvements

Description:

This factor considers conditions of the site or its infrastructure. It is similar to factor two (2) and four (4), in that it focuses is on the deterioration of exterior elements, and/or the current condition of public infrastructure. A visual deterioration of exterior elements, or a decline of public infrastructure, are examples of this factor. Private land and/or structures that have fallen into disrepair or are damaged also exhibit this factor. Conditions that would justify the inclusion of this factor in an area may include:

- Poor condition of streets or sidewalks
- Signage, such as billboards, that has fallen into disrepair
- Neglected Landscaping
- Damaged or missing public utilities
- Abundance of trash, debris or noxious weeds.

Findings

This blighting factor focuses on conditions which contribute to a negative perception throughout the survey area. These conditions include trash and debris, neglected landscaping, and missing public infrastructure.

The site visit found examples of these conditions throughout the survey area. Trash and debris piles, which were identified as evidence for Blighting Factor 4, were identified on each lot within the survey area. Trash and debris are evidence for conditions underscoring this factor.

The poor condition of streets and sidewalks throughout the survey area is also evidence of this factor. The site's public right of way is in disrepair, as mentioned in Factor 2, with street and sidewalk infrastructure visibly crumbling. Active transportation facilities, such as the sidewalk path down to the River trail, were also in disrepair. The metal handrails and gate were rusted and the paint peeling. The sidewalk was also missing sections, abruptly turning into washed out gravel paths as it came down the steep bluff. Sidewalks were also missing along some of the roads throughout the survey area.

The site's vacancy was punctuated by an overall lack of landscaping. Although rocks had been placed to mark lot lines, many had been moved or thrown and created a negative perception throughout the site.

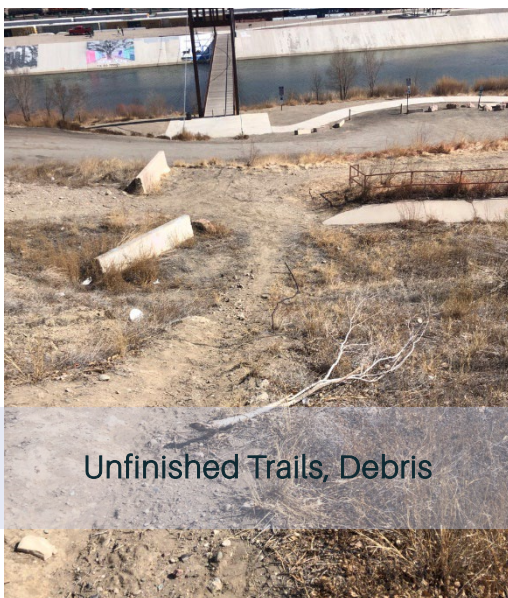
The neglected landscaping, debris and trash piles, and missing or inadequate infrastructure throughout the survey area justified its inclusion of this blighting factor.

Blighting Factor (e) - Deterioration of Site



Legend

- BF5 - Site Deterioration
- ▨ Conditions Survey Parcels
- ▭ Pueblo Parcels



Unfinished Trails, Debris



Landscape Deterioration

Factor (f) – Unusual Topography or Inadequate Public Improvements or Utilities

Description:

This factor refers to unusual topography or lack of public infrastructure that have the effect of arresting sound development in a study area. Areas that exhibit steep grades which cause development to be incompatible or unprofitable would fall under this factor. Properties that are lacking public infrastructure, or are served by deteriorating public infrastructure, would also fall under this factor. This factor shares aspects of factors two (2), four (4) and five (5). Conditions that justify the inclusion of this factor in an area may include:

- Steep slopes or unusual terrain
- Overhead utilities in need of repair
- Deteriorating parking lots, street surfaces, sidewalks
- Poor storm water drainage facilities
- Lack of central sewer or water
- Lack of internal street network
- Broken or inadequate street lighting

Findings

Blighting factors two (2), four (4) and five (5) identified conditions that also underscore the presence of blighting factor six (6) within the survey area. Inadequate public improvements or infrastructure, such as the missing road networks and sidewalks identified in factor two (2), and the unsafe pedestrian trail to the river identified in factor four (4) and five (5), also serve as examples of blighting factor six (6).

However, the main reason for including Factor 6 in this survey is the site's topography. The name of the proposed Plan area, "The Bluffs" highlights the properties main feature. The site sits atop a bluff overlooking the Arkansas River. Although the view is spectacular, the topography creates redevelopment challenges. Future development would need to contend with these steep grades and may be required to improve soil conditions and engineer retaining walls. This topography represents another condition exemplifying this factor.

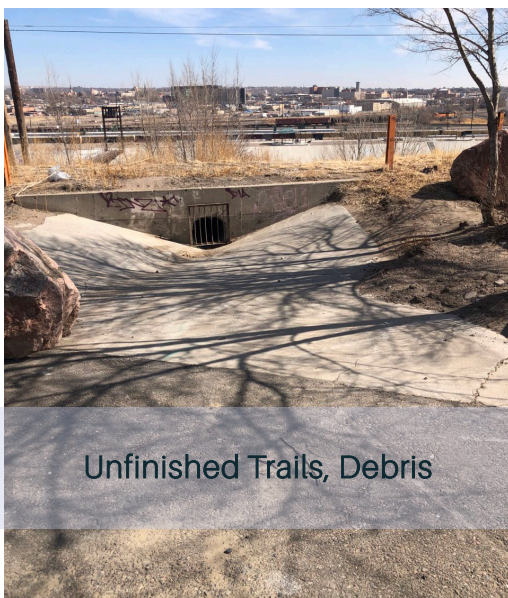
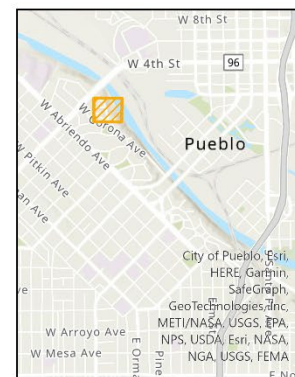
Although the site exhibited some stormwater facilities, these appeared to be inadequate for any future development needs. New stormwater infrastructure will be necessary to active the site for future development.

Blighting Factor (f) - Topography/Infrastructure



Legend

- BF6 - Topography/Infrastructure
- ▨ Conditions Survey Parcels
- ▭ Pueblo Parcels



Unfinished Trails, Debris



Steep Topography

Factor (j) – Environmental Contamination of Buildings or Property

Description:

This factor refers specifically to the environmental contamination of buildings or property. In this regard, it shares many similarities with factors four (4) and eight (8). Conditions that would justify the inclusion of this factor in an area may include:

- The presence of hazardous materials in buildings or property.

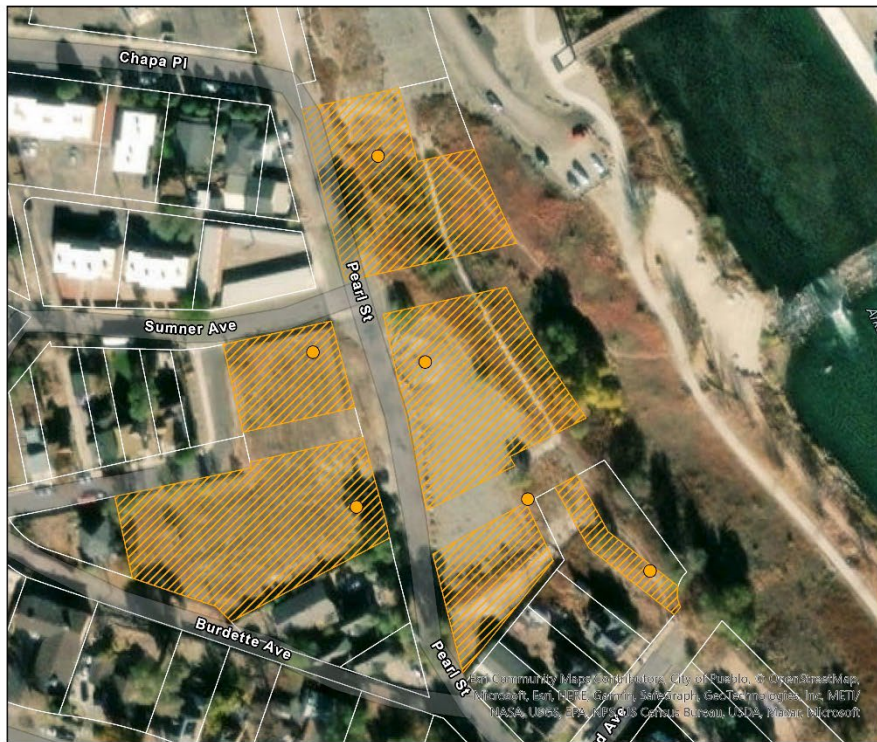
Findings

In 2014, the EPA designated the “Colorado Smelter Superfund Site”. This site includes the former steel smelter and slag pile, as well as a significant portion of the surrounding neighborhoods. The former smelter’s operations left high levels of arsenic and lead in the soils at the site and in the surrounding properties. The soil contamination at the site of the former smelter and slag pile are designated as Operable Unit 2 (OU 2) by the EPA and the contaminated soils surrounding this site are designated as Operable Unit 1 (OU 1).

The EPA’s Environmental Screening database has flagged this survey area due to its proximity to these operable units and their soil contamination levels. The fact that the EPA has flagged this survey area indicates that there is a high propensity for environmental contamination, namely soil contamination. A screenshot from the EPA’s website has been provided on the following page to illustrate its location.

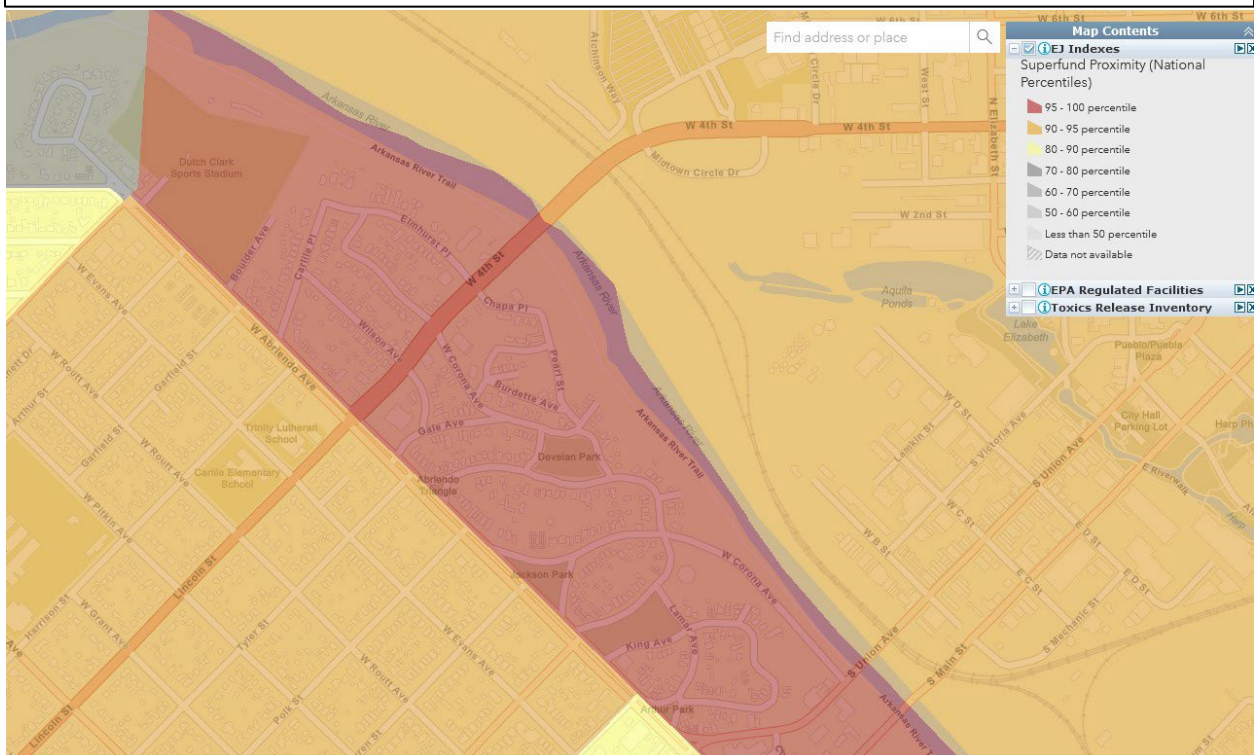
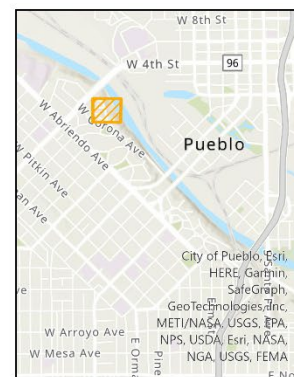
Pueblo’s industrial past has created environmental challenges for redevelopment. This report finds enough evidence on site to include environmental contamination as a blighting factor. However, this report recommends that any future development conduct a Phase 1 and Phase 2 ESA to accurately determine which contaminants are present and what remediation efforts to undertake.

Blighting Factor (j) - Environmental Contamination



Legend

- BF10 - Environmental Contamination
- Conditions Survey Parcels
- Pueblo Parcels



Factor (k.5) – The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements

Description:

This factor references a broad category of health, safety and welfare factors. The common conditions for this factor to be present are instances where high levels of municipal service are required, substantial physical underutilization of property is exhibited, or high levels of vacancy are common. Vacancy can include land, buildings, or tenancy. This factor shares similarities with many of the factors on this list. Conditions that would justify the inclusion of this factor in an area include:

- Numerous vacant buildings or property throughout the area
- Evidence of underutilized buildings
- Underutilized or vacant sites
- Broken or inadequate street lighting

Findings

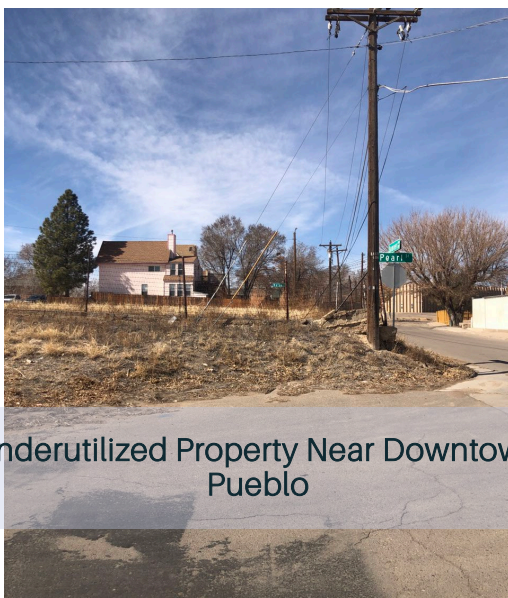
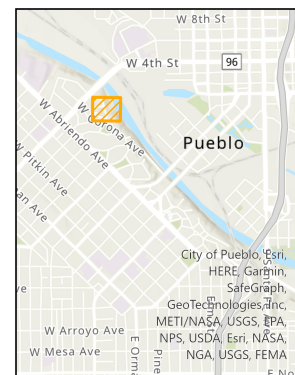
The survey area is characterized by vacant and underutilized parcels. All properties in the survey area lack building improvements. Despite being situated within a residential neighborhood, public infrastructure is lacking or altogether absent. The site's views and proximity to the river and downtown indicate a high redevelopment potential. However, the site remains vacant. Worse, trash, vandalism, and deterioration are evident and abundant. The clash between market forces and the reality that this area is completely vacant highlights conditions exhibited by this factor. The survey area is a prime example of underutilization.

Blighting Factor (k.5) - Underutilization/Vacancy



Legend

- BF11 - Vacancy/Underutilization
- ▨ Conditions Survey Parcels
- ▭ Pueblo Parcels



Underutilized Property Near Downtown Pueblo



Vacant Lots within Neighborhood

Conclusion

This Conditions Survey catalogs the presence of statutorily defined blighting factors within the proposed The Bluffs Phase I Urban Renewal Plan area. This report was designed to assist the Pueblo Urban Renewal Authority (PURA) in determining whether this area is 1) eligible for urban renewal projects and activities, and 2) that the proposed boundary is drawn as narrowly as possible.

This Conditions Survey identified seven (7) blighted area factors as defined by Colorado's Urban Renewal Law, within the survey boundaries of the proposed plan area. The presence of seven blighting factors meets the requirements outlined in C.R.S. 31-25-103(2), in which at least four blighting factors must be present for that area to be declared "blighted" and therefore eligible to be designated as an Urban Renewal Plan area.

The proposed boundary also meets the statutory recommendation of "being drawn as narrowly as possible". The seven blighting factors were not clustered in one vicinity, but rather, spread across the entirety of the survey boundary.

This Conditions Survey finds that the proposed Urban Renewal Plan area can be declared a "blighted area" as defined by Colorado's Urban Renewal Law and therefore qualifies for urban renewal treatment.



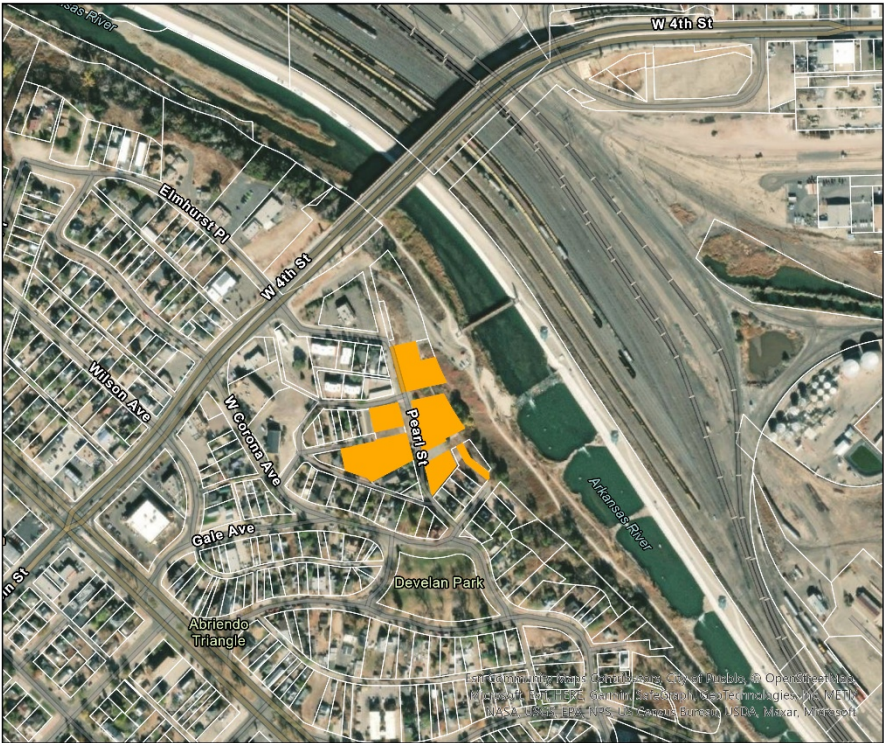
The Bluffs Phase 1 Urban Renewal Plan

April 26th, 2023

Prepared by:

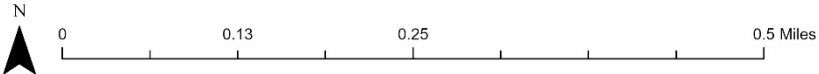
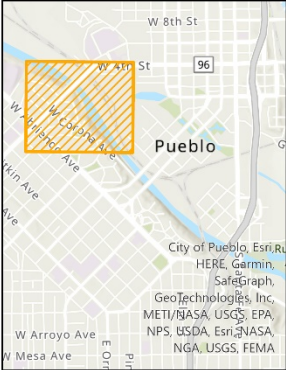
Pueblo Urban Renewal Authority (PURA)
Pioneer Development Company

The Bluffs Urban Renewal Plan



Legend

- The Bluffs Urban Renewal Plan Parcels
- Pueblo Parcels



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DEFINITIONS

The terms used in this Urban Renewal Plan shall have the following meanings:

Act means the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, of the Colorado Revised Statutes.

Area or **Urban Renewal Area** means the area of the City included within the boundaries of this Urban Renewal Plan as depicted in Exhibit A and described in Exhibit B.

Authority means the Urban Renewal Authority of Pueblo, Colorado.

City means the City of Pueblo, Colorado.

City Planning means the Department of Planning & Community Development of the City of Pueblo, Colorado.

City Consolidated Plan means the City of Pueblo 2020-2024 Consolidated Plan, approved June 14, 2021, by Ordinance No. 9951.

Comprehensive Plan means the Pueblo Regional Comprehensive Plan adopted in 2022.

County means Pueblo County, Colorado.

Neighborhood Plan means the Westside Neighborhood Plan adopted in 2004.

Plan or **Urban Renewal Plan** means this urban renewal plan as it may be amended in the future.

Project or **Urban Renewal Project** means all activities and undertakings described in this Plan.

I. INTRODUCTION

The purpose of this Plan is to implement those provisions of the Comprehensive Plan and the City Strategic Plan that apply to the Urban Renewal Area. The provisions of this Plan are intended to help provide important services to the Area, eliminate and prevent conditions of blight, attract private investment, utilize underdeveloped land, and leverage public investment and funding mechanisms to promote redevelopment and rehabilitation of the area by private enterprise, and, where necessary, provide necessary public infrastructure to serve the Area.

This Urban Renewal Plan has been proposed for consideration by the City Council of the City pursuant to the provisions of the Act. The administration of the Project and the implementation of the Plan shall be the responsibility of the Authority.

II. URBAN RENEWAL AREA BOUNDARY

An urban renewal plan area has been created that includes properties that are within the City of Pueblo's municipal limits. The Area, titled "Bluffs Phase 1" includes 5 parcels along Pearl Street, atop a bluff overlooking the Arkansas River. These parcels encompass ~3.3 acres including public right-of-way and are zoned R-5 residential. The subject area is characterized by vacant land, steep topography, deteriorating or missing infrastructure, and irregularly shaped parcels. The survey area is proximal to the "Colorado Smelter" EPA Superfund site and may require environmental remediation. The Area's characteristics make future development challenging and is the reason why PURA is evaluating this site for Urban Renewal treatment.

III. SUMMARY OF STATUTORY CRITERIA

On April 9th, 2023, a conditions survey report was delivered to the Pueblo Urban Renewal Authority and its Board of Commissioners that summarized a blight study of the area described as The Bluffs Phase 1 Urban Renewal Plan. Relevant conditions were researched, documented, photographed, and compared with the blight factors pursuant to the Act. The result of the survey is included in a document entitled "The Bluffs Phase 1 Urban Renewal Plan Conditions Survey" (the Conditions Survey) dated April 9th, 2023, consisting of 25 pages, related exhibits, a description of existing conditions, and numerous photographs. The Conditions Survey is incorporated herein in its entirety by this reference.

The Conditions Survey shows that the following factors listed in the Act are present in the Area and that these conditions qualify the Area as a "blighted area" as defined in the Act:

Conditions Survey – Blighting Factors Cataloged

Blighted Area Factor # (C.R.S. 31-25-103.2 List Label)	Definition
Factor 2 (b)	Predominance of Defective or Inadequate Street Layout
Factor 3 (c)	Faulty Lot Layout in Relation to Size, Adequacy, Accessibility, or Usefulness
Factor 4 (d)	Unsanitary or Unsafe Conditions
Factor 5 (e)	Deterioration of Site or Other Improvements
Factor 6 (f)	Unusual Topography or Inadequate Public Improvements or Utilities
Factor 10 (j)	Environmental Contamination of Buildings or Property
Factor 11 (k.5)	The Existence of Health, Safety, or Welfare Factors Requiring High Levels of Municipal Services or Substantial Physical Underutilization or Vacancy of Sites, Buildings, or Other Improvements

IV. DESCRIPTION OF URBAN RENEWAL PROJECT

This Plan will be implemented as part of a comprehensive program to eliminate and prevent blight in the Urban Renewal Area. The Authority and the City, with the cooperation of private enterprise and other public bodies, will undertake a program to eliminate the conditions of blight identified in the Conditions Survey while supporting Pueblo's Regional Comprehensive Plan, the City's Consolidated Plan, and the Pueblo community's remediation and redevelopment goals. Although there are other adopted Plan's both locally and regionally not listed, the Goals and Policies of these plans are assumed to be subsumed under the Comprehensive Plan.

A. Urban Renewal Plan Goals and the Plan's Relationship to Local and Regional Objectives

Goals of the Plan

1. **Goals of the Plan** – This Plan has been adopted to achieve the following goals in the Area:
 - a) To encourage renewal throughout the Area by attracting additional investment and redevelopment within the Project.
 - b) To alleviate blighting conditions within the Area's Boundary
 - c) To leverage Tax Increment Financing to assist with the funding of Infrastructure and Facilities that will help advance the remediation and revitalization goals of the Area.
 - d) To incentivize and invest in catalytic developments to remediate blighting conditions and spur additional community minded development throughout the Area.
 - e) To encourage redevelopment within the Area that aligns with the City of Pueblo's future land use designations and zoning districts.
 - f) To leverage Tax Increment Financing to help attract new commercial and residential investments within the Area.
 - g) To improve the streetscapes to promote on-street bike and pedestrian travel while also enhancing lighting, sidewalks, pedestrian safety, parking, signage, landscaping, bike racks and bus shelters.
 - h) To improve pedestrian and trail connections to from the Area to the Arkansas River.
 - i) To invest in cultural and community spaces throughout the Area.

2. Relationship to Comprehensive Plan

The Plan conforms with and is designed to help implement the Visions, Goals, Policies and Guiding Principles detailed in the Comprehensive Plan, revised and adopted September 2022:

- a) The Plan will support Goal 1.1 to “Expand Housing options to meet the needs of existing and future residents of all ages, abilities, and income levels”. The Plan will help to target new residential development within its boundaries. The Plan will help to support higher-density, residential development in an underutilized and challenging development area.

The Plan will support Goal 7.2 to “Expand transportation connections to, from and within the region”. The Plan will help improve public right of way, sidewalks, and even trail connections to the Arkansas River.

B. Land Use Regulations and Building Requirements

The Plan will provide a comprehensive and unified plan to promote and encourage high quality development and redevelopment of the Urban Renewal Area by cooperative efforts of private enterprise and public bodies. Notwithstanding anything in the Plan to the contrary, the development and use of the property within the Urban Renewal Area described in the Plan including, without limitation, land area, land use, design building requirements, timing or procedures applicable to the property, shall be subject to the Pueblo Municipal Code, Pueblo County Land Use Code and secondary codes therein adopted by reference, and other applicable standards and regulations of the City of Pueblo ("City Regulations") and Pueblo County ("County Regulations"). Permitted uses for properties in the Urban Renewal Area shall be those uses allowed in the City of Pueblo Land Use Code for annexed parcels.

V. PROJECT ACTIVITIES

The following provisions shall apply to the Area. In accordance with the Act, the Authority may undertake these activities directly or, to the extent authorized by applicable law, contract with third parties to do so.

A. Public Participation

The Authority is committed to public participation in pursuit of the objectives of this Urban Renewal Plan through discussion with the appropriately registered neighborhood organizations and will invite public comment on the Project at multiple public meetings with members of appropriately registered neighborhood organizations in attendance. Pursuant to policies adopted by the Authority and to the extent provided in Colorado Open Records Act, Colo. Rev. Stat. Title 24, Article 72, Part 2, as the same may be amended from time to time, the Project's plans and proposals will be made available to the public.

B. Public Improvements

The Authority may undertake certain actions to eliminate blight and make the Urban Renewal Area and its environs more attractive for private investment. The Authority may or may cause to be installed, constructed, and reconstructed public improvements in furtherance of the Plan, which may include, without limitation, streets, sidewalks, alleys, utility infrastructure, sanitary sewer, water infrastructure, utility service facilities, parks, streetscapes, pedestrian corridors, bicycle facilities, and parking facilities. The Authority also may or may cause to be installed, constructed, and reconstructed any other authorized improvements in furtherance of the Plan, which may include, without limitation, façade improvements, public access ways, public gathering areas, and other improvements. Any such construction or improvements shall be performed in accordance with the City's Comprehensive Plan, City specifications and upon obtaining required City permits and compliance with all applicable laws.

C. Redevelopment Agreements

The Authority or the City is authorized to enter into one or more Redevelopment Agreements with developers, landowners, and other entities determined to be necessary or desirable to carry out the purposes of this Plan. Such Redevelopment Agreements may contain such terms and provisions as shall be deemed necessary or appropriate by the Authority and/or the City for the purpose of undertaking the activities contemplated by this Plan or the Act and may further provide for such undertakings by the Authority, including financial assistance (subject to the limitations contained herein), as may be necessary for the achievement of the objectives of this Plan or as may otherwise be authorized by the Act.

D. Redevelopment and Rehabilitation

Redevelopment and rehabilitation actions within the Urban Renewal Area may include such undertakings and activities as are in accordance with this Plan and the Act, including without limitation: (i) renovation and enhancement of buildings and improvements; (ii) the installation, construction, relocation and reconstruction of public and private improvements; (iii) the carrying out of plans for a program through voluntary action for the repair, alteration, and rehabilitation of buildings or other improvements in accordance with this Plan; and (iv) the taking of such other actions to eliminate unhealthy, unsanitary or unsafe conditions, eliminate obsolete or other uses detrimental to the public welfare, or otherwise remove or prevent the spread of blight or deterioration. In the absence of any Redevelopment Agreement, development, redevelopment, and rehabilitation in furtherance of the Plan must be undertaken in accordance with, as applicable, the building and zoning regulations and other applicable ordinances of the City.

E. Cooperation Agreements

For the purposes of planning and carrying out this Plan in the Area, the Authority may enter into one or more cooperation agreements with the City, County, or other public bodies. Without limitation, such agreements may include project financing and implementation; design, location, and construction of public improvements; and any other matters required to carry out this Project. It is recognized that cooperation with the City, County, and other public and private bodies may be required to coordinate such issues as the design, construction, maintenance, operation, and timing of public and private improvements within the Area to properly and efficiently carry out the goals and objectives of this Plan.

VI. PROJECT FINANCING

A. Financing Methods

The Authority is authorized to finance the Project and other activities by several methods, including, but not limited to, the following: appropriations from the City; Property Tax Increment paid pursuant to the Cooperation Agreement; interest income; federal loans or grants; or any other available source of revenue allowable under the provisions of the Act or other applicable laws. The Authority anticipates the Public Improvements anticipated under the Plan will cost approximately \$689,722. The Urban Renewal Plan contemplates that a primary method of financing this project shall be using property tax increment. The City Council will consider the authorization of financing of tax increments when the Pueblo Urban Renewal Authority submits a plan of finance outlining the proposed amounts and purpose for which the tax increments are to be used. Upon City Council approval, the tax increment will be distributed in accordance with the tax increment financing provisions of Section 31-25-107 (9), C.R.S. which is by this reference incorporated herein as if set forth in its entirety. If there is any conflict between the Act

and this Urban Renewal Plan, the provisions of the Act shall control, and the language in the Plan will be automatically deemed to conform to the statute.

In addition, subject to the City's approval under §31-25-107 (7), the Authority is authorized to issue other obligations, incur indebtedness, loans, or advances as contemplated by the Act in an amount sufficient to carry out all or any part of the Project. The principal of, interest on, and any premiums due in connection with such bonds, indebtedness, loans or advances may be paid from Property Tax Increment or any other funds, revenues, assets or properties legally available to the Authority.

B. Cooperation Agreements between the City and the Authority

Before the Authority enters a Redevelopment Agreement, the City and the Authority shall enter a Cooperation Agreement.

C. Tax Increment Financing

This Plan contemplates that the primary method of financing the Project and other activities by the Authority shall be the use of Property Tax Increment financing under the tax increment financing provisions of C.R.S. § 31-25-107(9), as amended from time to time, which is by this reference incorporated herein as if set forth in its entirety, subject to City Council approval as set forth herein. In accordance with the Act, the Authority notified the governing bodies of each other public body whose Property Tax Revenues would be allocated under this Plan and negotiated agreements governing the types and limits of tax revenues of each taxing entity to be allocated under the Plan. The Authority has or shall enter into agreements with each taxing entity addressing, without limitation, estimated impacts of the Plan on district services associated solely with the Plan. The allocated shared tax revenues governed by each agreement shall be limited to all or any portion of the taxes levied upon taxable property by the public body within the area covered by the Plan. If there is any conflict between the Act, a Cooperation Agreement, a district agreement and this Plan, the provisions of the Act shall control. For the Urban Renewal Area, all Property Taxes levied after the effective date of the approval of the Urban Renewal Area upon the taxable property in the Urban Renewal Area each year by or for the benefit of the City shall be divided as follows:

- a. In the case of a Property Tax Increment Area, that portion of the Property Tax Revenues that are produced by the levy at the rate fixed each year by or for each public body upon the valuation for assessment of taxable property in the Urban Renewal Area last certified prior to the effective date of approval of such Area in respect of this Plan or, as to an area later added to the Area, the effective date of the modification of this Plan specifying such Area shall be paid into the funds of each such public body as are all other taxes collected by or for such public body.
- b. Except as the Authority may legally provide otherwise under the Act, that portion of the Property Tax Revenues in excess of the amounts described in paragraph

above shall be allocated to, and when collected, paid into a special fund of the Authority, and may be irrevocably pledged by the Authority for the payment of the principal of, premium, if any, and interest on any bonds of, loans or advances to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the Authority to finance or refinance, in whole or in part, the Project. Unless and until the Property Tax Revenue in excess of the amount as provided in paragraph I(3)(a) above, all of the Property Tax Revenues for the Urban Renewal Area shall be paid into the funds of the respective public bodies.

- c. When such bonds, loans, advances, and indebtedness, if any, including interest thereon and any premiums due in connection therewith, have been paid, with respect to a tax increment but in no event later than twenty-five (25) years following the effective date such Urban Renewal Area is included in this Plan approved by City Council, the total Property Tax Revenues in such Area shall be paid into the funds of the City and the applicable public bodies, respectively. To the extent any tax increment exceeds the required amount of debt service for any such bonds, loans, advances, and indebtedness, including interest thereon and any premiums due in connection therewith, within any given year, such excess shall be refunded to the applicable public bodies, in proportion to their respective mill levy.
- d. In the event there is a general reassessment of taxable property valuations in the City, including all or part of the Urban Renewal Area, the portions of valuations for assessment attributable thereto under this Part VI shall be proportionately adjusted in accordance with such reassessment or change.

The Authority and the City may, by Cooperation Agreement or other agreement, provide for the method by which Property Tax Increment shall be allocated and paid to the Authority pursuant to the provisions of this Plan and the Act. Such agreements, and similar agreements between the Authority and other public bodies, may provide additional assistance by the City and cooperation between the Authority and the City in support of the Project as may be more fully set forth in the provisions of such Cooperation Agreement or other agreement.

VII. CHANGES IN APPROVED PLAN

This Plan may be modified pursuant to the provisions of the Act governing such modifications, including but not limited to § 31-25-107, C.R.S. It is explicitly understood all proposed modifications shall be submitted to the City Council for approval. Minor Modifications, those not defined as substantial under the Act, shall be reviewed and approved by the City Council through resolution. Substantial Modifications must be submitted to City Council and approved with the same formalities as this Plan. Substantial Modifications include modifications to the Plan regarding land area, land use, authorization to collect incremental tax revenue, the extent of the use of tax increment financing, the scope or nature of the urban renewal project, the scope or

method of financing, design, building requirements, timing, or procedure, or substantial clarification to parts of this Plan lacking specificity with respect to the urban renewal project or any financing.

VIII. MINOR VARIATIONS

The Authority may in specific cases allow minor variations from the provisions of the Plan if it determines that a literal enforcement of the provisions of the Plan would constitute an unreasonable limitation beyond the intent and purpose of the Plan.

EXHIBIT A

THE BLUFFS PROJECT AREA



Legend

-  The Bluffs Project Area
-  Parcels



EXHIBIT B

LEGAL DESCRIPTION

(FROM ALTA COMMITMENT STEWART TITLE COMPANY DBA UNIFIED TITLE-FILE NO. 1741255, DATED JUNE 6, 2022) LOTS 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 AND 24, BLOCK 4, DELAVAN PLACE SUBDIVISION, EXCEPT THE SOUTH 13 FEET OF LOT 14 AND THE NORTH 17 FEET OF LOT 15, BLOCK 4, DELAVAN PLACE SUBDIVISION, AS DESCRIBED IN WARRANTY DEED RECORDED MARCH 7, 2003 UNDER RECEPTION NO. 1489007, TOGETHER WITH THE VACATED ALLEY IN BLOCK 4 ADJACENT TO SUBJECT LAND AND THE NORTHERN HALF OF BURDETTE AVENUE AS SHOWN IN ORDINANCE NO. 1512 RECORDED MARCH 5, 1949 IN BOOK 1090 AT PAGE 101, RECEPTION NO. 835282 COUNTY OF PUEBLO, STATE OF COLORADO

(FROM ALTA COMMITMENT STEWART TITLE COMPANY DBA UNIFIED TITLE-FILE NO. 1717205, DATED APRIL 22, 2022) THE SOUTH 13 FEET OF LOT 14 AND THE NORTH 17 FEET OF LOT 15, BLOCK 4, DELAVAN PLACE COUNTY OF PUEBLO, STATE OF COLORADO

(FROM ALTA COMMITMENT STEWART TITLE COMPANY DBA UNIFIED TITLE -FILE NO. 1717143, DATED MAY 24, 2022) PARCEL A: (FILE NO. 1717143) LOTS 1 TO 7, INCLUSIVE, BLOCK 5 DELAVAN PLACE, COUNTY OF PUEBLO, STATE OF COLORADO

PARCEL B: (FILE NO. 1717143) LOT 6, BLOCK 6, DELAVAN PLACE, COUNTY OF PUEBLO, STATE OF COLORADO

PARCEL C: (FILE NO. 1717143) LOTS 15, 16 AND 17, EXCEPTING THAT PORTION CONVEYED TO THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, A DELAWARE CORPORATION BY DEED RECORDED NOVEMBER 21, 1921 IN BOOK 529 AT PAGE 92, AND LOTS 18 TO 21, INCLUSIVE, BLOCK 2, DELAVAN PLACE, COUNTY OF PUEBLO, STATE OF COLORADO.

PARCEL D: (FILE NO. 1717143) LOTS 1 TO 4, INCLUSIVE, BLOCK 6 DELAVAN PLACE, COUNTY OF PUEBLO, STATE OF COLORADO



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Pueblo Urban Renewal Authority

SUBJECT: AN ORDINANCE MAKING CERTAIN LEGISLATIVE FINDINGS AND APPROVING THE NORTH ELIZABETH HOTEL URBAN RENEWAL PLAN

SUMMARY:

This ordinance makes certain legislative findings, establishing the North Elizabeth Hotel Urban Renewal Area and approving the North Elizabeth Hotel Urban Renewal Plan proposed by the Pueblo Urban Renewal Authority (PURA) to alleviate blight and conduct a study to identify blighting factors within the proposed North Elizabeth Hotel Area in conjunction with the North Elizabeth Hotel development project.

PREVIOUS COUNCIL ACTION:

On January 8, 2024, City Council, through Resolution No. 3295 approved the commissioning of a Conditions Survey to determine if the statutory blight factors exist within the proposed Area.

BACKGROUND:

The North Elizabeth Hotel area encompasses one (1) parcels and approximately 2.1 acres. and includes is zoned B4-Regional Commercial. The subject area is characterized by vacant land, potential environmental contamination, a deteriorated structure, deteriorating or missing infrastructure, and evidence of homelessness. The survey area's historic uses include a former dry cleaner as well as a gas station. These uses have a high propensity to leave underground storage tanks and cause environmental contamination. This conditions survey evaluated both Phase 1 and Phase 2 Environmental Site Assessments (ESA's) performed on the property. These ESA's did not identify soil contamination that exceeded CDPHE standards. However, asbestos abatement is required on the former laundromat. The ESA's also made clear that there is a possibility for environmental contamination elsewhere on the site, and that underground storage tanks could be present. The Urban Renewal Plan contemplates using tax increment financing by PURA to alleviate blight and facilitate

redevelopment of the Urban Renewal Area through public improvements, redevelopment agreement(s), redevelopment and rehabilitation, and cooperative agreements with the City and other public bodies.

PURA indicates it intends to finance the amounts necessary to complete the proposed Urban Renewal Project. As a result, PURA will adequately finance, put agreements in place to finance, or reimburse through a cooperation agreement any additional infrastructure and services required to serve development within the Area for the period in which all or a portion of the property taxes described in C.R.S. § 31-25-107 (9) (a) (II) and levied by taxing entities are paid to the Authority. To the extent excess tax increment revenue is available after debt service or other obligations, PURA will refund such excess revenue to the corresponding taxing entities in proportion to their contributions. PURA anticipates the improvements made will increase the valuation of the Urban Renewal Area by \$ \$2,636,218.00. PURA requests a maximum tax increment revenue pledge of \$ \$7,022,058 from all the taxing entities within the Urban Renewal Area.

FINANCIAL IMPLICATIONS:

PURA is requesting the City pledge up to a maximum of \$1,127,588 in potential property tax revenue over the next twenty-five (25) years to finance the Urban Renewal Project contemplated in the North Elizabeth Hotel Urban Renewal Plan. The Public Improvements in the area are anticipated to cost between \$2,000,000 and \$3,000,000.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission determined the proposed project meets the requirements of the City's Comprehensive Plan.

STAKEHOLDER PROCESS:

The PURA has been in contact with and presented for approval the Urban Renewal Plan to the other taxing entities within the proposed Urban Renewal Area.

ALTERNATIVES:

A "no action" alternative would prevent the designation of the North Elizabeth Hotel Renewal Area, reject approval of the North Elizabeth Hotel Urban Renewal Plan, prohibit PURA's involvement in the redevelopment of the North Elizabeth Hotel Development Project, and require a vote of the people for any tax increment financing.

RECOMMENDATION:

Approval of the Ordinance

ATTACHMENTS:

1. Ordinance (North Elizabeth Hotel Urban Renewal Area)
2. Hotel Conditions Survey 8.19.2023
3. Hotel Urban Renewal Plan (Final)

ORDINANCE NO.

AN ORDINANCE MAKING CERTAIN LEGISLATIVE FINDINGS AND APPROVING THE NORTH ELIZABETH HOTEL URBAN RENEWAL PLAN

WHEREAS, WHEREAS, by Resolution No. 3295, the City Council of Pueblo ("City Council") authorized and directed the Pueblo Urban Renewal Authority to study an area (the "Area") of Pueblo ("City") to assess if blighting factors exist in the Area and if appropriate, recommend that the City Council consider one or more redevelopment plans to remove any such conditions of blight;

WHEREAS, WHEREAS, the Authority contracted with Pioneer Development Company (the "Consultant") to conduct a conditions survey of the Area, which is more particularly described in Exhibit A, attached to and incorporated herein, to determine if the Area contains factors included in the definition of "blighted area" in the Colorado Urban Renewal Law, Sections 31-25-101, *et seq.*, C.R.S., ("Act");

WHEREAS, the Consultant prepared, submitted, and presented to the Authority and City Council a document entitled "Hotel Conditions Survey" ("Survey") dated August 18, 2023, which describes in detail the conditions in the Area and is incorporated herein by this reference;

WHEREAS, the Consultant prepared, and the Authority has presented to the City the proposed North Elizabeth Hotel Urban Renewal Plan ("Plan"), attached hereto and incorporated herein; and

WHEREAS, the City Attorney has reviewed the Plan and approves the Plan as to form, as attached hereto and incorporated herein;

WHEREAS, the aforesaid Plan is a matter of public record in the custody of the City Clerk and is available for public inspection during business hours of the City;

WHEREAS, notice of the public hearing on the Plan was published as required by Section 31-25-107(3), C.R.S., at least thirty (30) days prior to the public hearing;

WHEREAS, the City Council has taken reasonable efforts to provide written notice of the public hearing to all property owners, residents, and business owners in the area included in the Plan ("Urban Renewal Area") informing them of the public hearing at least thirty (30) days prior to the public hearing;

WHEREAS, the City's Planning and Zoning Commission has reviewed the Plan and determined the Plan complies with the City's Comprehensive Plan for development within the City ("Comprehensive Plan"), which is the general plan for the development of the City;

WHEREAS, the Plan contains provisions that anticipate the allocation of property tax increment revenues derived from the levies of taxing entities that levy property taxes in the proposed Urban Renewal Area ("Taxing Entities");

WHEREAS, the Authority has delivered to the Taxing Entities (a) the notice of the public hearing, (a) the Plan, and (c) a copy of an impact report ("Impact Report") prepared by the Consultant that describes the burdens and benefits of the Plan on the revenues and services of such Taxing Entities;

WHEREAS, based on the Impact Report, the Authority has reached agreement with the Taxing Entities regarding estimated impacts on services of the Taxing Entities associated solely with the Plan as required by Section 31-25-107(9.5) of the Act; and

WHEREAS, on January 22, 2024, the City Council conducted a public hearing and reviewed said Plan pursuant to the procedural and notice requirements of the City Charter, and the Act, and the City Council having considered the evidence presented in support of and in opposition to the Plan, the Survey, the City's Comprehensive Plan, and staff recommendations and so having considered the legislative record and given appropriate weight to the evidence; NOW,

THEREFORE,

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

SECTION 1.

The Urban Renewal Area described in the Plan is found and declared to be a blighted area as defined in the Act. This is a legislative finding by the City Council based upon the Survey and other evidence presented to City Council.

SECTION 2.

The boundaries of the Urban Renewal Area have been drawn as narrowly as the City Council determines feasible to accomplish the planning and development objectives of the Plan.

SECTION 3.

The Plan, Impact Report, and notice of the public hearing have been submitted to the Taxing Entities, including the Board of County Commissioners of Pueblo County, Colorado, (the "County") together with the information required by Sections 31-25-107(3.5) and (9.5) of the Act. The Plan will remediate conditions of blight in the Urban Renewal Area.

SECTION 4.

To conform with the representations made to the Taxing Entities by the Authority, the Plan shall be amended as follows:

1. Section V of the Plan shall be amended and replaced as follows:
 1. PROJECT ACTIVITIES - The following provisions shall apply to the Area. In accordance with the Act, the Authority may undertake these activities directly or, to the extent authorized by applicable law, contract with third parties to do so.
 1. Public Improvements – The Authority may undertake certain actions to eliminate blight and make the Urban Renewal Area and its environs more attractive for private investment. The Authority may or may cause to be installed, constructed, and reconstructed public improvements in furtherance of the Plan, which may include, without limitation, streets, sidewalks, alleys, utility infrastructure, utility service facilities, parks, streetscapes, pedestrian corridors, bicycle facilities, and parking facilities. The Authority also may or may cause to be installed, constructed, and reconstructed any other authorized improvements in furtherance of the Plan, which may include, without limitation, façade improvements, public access ways, public gathering areas, and other improvements. Any such construction or improvements shall be performed in accordance with the City's Comprehensive Plan, City specifications and upon obtaining required City permits and compliance with all applicable laws.
 2. Redevelopment Agreements – The Authority is authorized to enter into one or more Redevelopment Agreements with developers, landowners, and other entities determined to be necessary or desirable to carry out the purposes of this Plan. Such Redevelopment Agreements may contain such terms and provisions as shall be deemed necessary or appropriate by the Authority for the purpose of undertaking the activities contemplated by this Plan or the Act and

may further provide for such undertakings by the Authority, including financial assistance (subject to the limitations contained herein), as may be necessary for the achievement of the objectives of this Plan or as may otherwise be authorized by the Act.

3. **Redevelopment and Rehabilitation** – Redevelopment and rehabilitation actions within the Urban Renewal Area may include such undertakings and activities as are in accordance with this Plan and the Act, including without limitation: (i) renovation and enhancement of buildings and improvements; (ii) the installation, construction, relocation and reconstruction of public and private improvements; (iii) the carrying out of plans for a program through voluntary action for the repair, alteration, and rehabilitation of buildings or other improvements in accordance with this Plan; and (iv) the taking of such other actions to eliminate unhealthy, unsanitary or unsafe conditions, eliminate obsolete or other uses detrimental to the public welfare, or otherwise remove or prevent the spread of blight or deterioration. In the absence of any Redevelopment Agreement, development, redevelopment, and rehabilitation in furtherance of the Plan must be undertaken in accordance with, as applicable, the building and zoning regulations and other applicable ordinances of the City.
 4. **Cooperation Agreements** – For the purposes of planning and carrying out this Plan in the Area, the Authority may enter into one or more cooperation agreements with the City, County, or other public bodies. Without limitation, such agreements may include project financing and implementation; design, location, and construction of public improvements; and any other matters required to carry out this Project. It is recognized that cooperation with the City, County, and other public and private bodies may be required to coordinate such issues as the design, construction, maintenance, operation, and timing of public and private improvements within the Area to properly and efficiently carry out the goals and objectives of this Plan.
2. Section VI of the Plan shall be amended and replaced as follows:
 1. **PROJECT FINANCING** –
 1. **Financing Methods:** The Authority is authorized to finance the Project and other activities by several methods, including, but not limited to, the following: appropriations from the City; Property Tax Increment paid pursuant to the Cooperation Agreement; interest income; federal loans or grants; or any other available source of revenue allowable under the provisions of the Act or other applicable laws. The Authority anticipates financing the Project Activities under the Plan through a private placement bond issuance for amounts not to exceed \$3,000,000. In addition, subject to the City's approval under §31-25-107 (7), the Authority is authorized to issue other obligations, incur indebtedness, loans, or advances as contemplated by the Act in an amount sufficient to carry out all or any part of the Project. The principal of, interest on, and any premiums due in connection with such bonds, indebtedness, loans or advances may be paid from Property Tax Increment or any other funds, revenues, assets or properties legally

available to the Authority.

2. Cooperation Agreements between the City and the Authority: Before the Authority enters into a Redevelopment Agreement, the City and the Authority shall enter into a Cooperation Agreement.
3. Tax Increment Financing: This Plan contemplates that the primary method of financing the Project and other activities, by the Authority, shall be the use of Property Tax Increment financing under the tax increment financing provisions of C.R.S. § 31-25-107(9), as amended from time to time, which is by this reference incorporated herein as if set forth in its entirety, subject to City Council approval as set forth herein. In accordance with the Act, the Authority notified the governing bodies of each other public body whose Property Tax Revenues would be allocated under this Plan and negotiated agreements governing the types and limits of tax revenues of each taxing entity to be allocated under the Plan. The Authority has or shall enter into agreements with each taxing entity addressing, without limitation, estimated impacts of the Plan on district services associated solely with the Plan. The allocated shared tax revenues governed by each agreement shall be limited to all or any portion of the taxes levied upon taxable property by the public body within the area covered by the Plan. If there is any conflict between the Act, a Cooperation Agreement, a district agreement and this Plan, the provisions of the Act shall control. For the Urban Renewal Area, all Property Taxes levied after the effective date of the approval of the Urban Renewal Area upon the taxable property in the Urban Renewal Area each year by or for the benefit of the City shall be divided as follows:
 1. In the case of a Property Tax Increment Area, that portion of the Property Tax Revenues that are produced by the levy at the rate fixed each year by or for each public body upon the valuation for assessment of taxable property in the Urban Renewal Area last certified prior to the effective date of approval of such Area in respect of this Plan or, as to an area later added to the Area, the effective date of the modification of this Plan specifying such Area shall be paid into the funds of each such public body as are all other taxes collected by or for such public body.
4. Except as the Authority may legally provide otherwise under the Act, that portion of the Property Tax Revenues in excess of the amounts described in paragraph above shall be allocated to, and when collected, paid into a special fund of the Authority, and may be irrevocably pledged by the Authority for the payment of the principal of, premium, if any, and interest on any bonds of, loans or advances to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the Authority to finance or refinance, in whole or in part, the Project. Unless and until the Property Tax Revenue in excess

of the amount as provided in paragraph I(3)(a) above, all of the Property Tax Revenues for the Urban Renewal Area shall be paid into the funds of the respective public bodies.

5. When such bonds, loans, advances, and indebtedness, if any, including interest thereon and any premiums due in connection therewith, have been paid, with respect to a tax increment but in no event later than twenty-five (25) years following the effective date such Urban Renewal Area is included in this Plan approved by City Council, the total Property Tax Revenues in such Area shall be paid into the funds of the City and the applicable public bodies, respectively.
6. In the event there is a general reassessment of taxable property valuations in the City, including all or part of the Urban Renewal Area, the portions of valuations for assessment attributable thereto under this Part VI shall be proportionately adjusted in accordance with such reassessment or change.
7. The Authority and the City may, by Cooperation Agreement or other agreement, provide for the method by which Property Tax Increment shall be allocated and paid to the Authority pursuant to the provisions of this Plan and the Act. Such agreements, and similar agreements between the Authority and other public bodies, may provide for additional assistance by the City and cooperation between the Authority and the City in support of the Project as may be more fully set forth in the provisions of such Cooperation Agreement or other agreement.

SECTION 5.

Pueblo City Schools (School District No. 60) has been permitted to participate in an advisory capacity with respect to the inclusion in the Plan of the tax allocation provisions authorized by Section 31-25-107(9) of the Act.

SECTION 6.

The Urban Renewal Area contains vacant land, and it is not expected that any relocation of individuals and families will be required in connection with the Plan, therefore, to the extent that any relocation may be required, this activity shall substantially modify the Plan. A feasible method exists for relocating individuals and families to decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such individuals and families.

SECTION 7.

The Urban Renewal Area contains vacant land, it is not expected that any relocation of business concerns will be required in connection with the Plan. To the extent that any such relocation may be required, this activity shall substantially modify the Plan. A feasible method exists for relocating such business concerns in the Urban Renewal Area or other areas that are not generally less desirable with respect to public utilities and public and commercial facilities.

SECTION 8.

The City Council has taken reasonable efforts to provide written notice of the public hearing prescribed by § 31-25-107 (4) (c) of the Act to all property owners, residents, and owners of business concerns in the proposed Urban Renewal Area at their last known addresses at least thirty (30) days prior to the public hearing on the Plan.

SECTION 9.

§ 31-25-107 (4) (d) of the Act does not apply because no more than 120 days have

passed since the commencement of the only public hearing on the Plan.

SECTION 10.

§ 31-25-107 (4) (e) of the Act does not apply because the City Council did not fail to previously approve this Plan.

SECTION 11.

The Plan conforms with the City's Comprehensive Plan, which is the general plan for the development of the City as a whole.

SECTION 12.

The Plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the Urban Renewal Area described in the Plan by private enterprise.

SECTION 13.

The entire Urban Renewal Area is within the corporate limits of the City. Construction and maintenance of public improvements and provision of services in the Urban Renewal Area will be the primary responsibility of the Authority and private enterprise. Any impacts on the services or revenues of the Taxing Entities will be offset by new revenues not now being collected by the Taxing Entities and directly produced because of the Plan and subsequent redevelopment of the Urban Renewal Area and adjacent property outside of the Urban Renewal Area.

SECTION 14.

The Urban Renewal Area described in the Plan does not consist of open land within the meaning of § 31-25-107 (5) and (6) of the Act. Therefore, the findings and determinations set forth in such sections of the Act do not apply and are not required.

SECTION 15.

The Authority is not authorized to acquire property by exercising eminent domain.

SECTION 16.

The North Elizabeth Hotel Urban Renewal Plan has been duly reviewed and considered and is hereby approved as amended herein. The Authority is hereby authorized to take any and all actions pursuant to the Act to carry out the Plan.

SECTION 17.

The officers and staff of the City are authorized and directed to take all actions necessary, appropriate or required to implement the provisions of this Ordinance.

SECTION 18.

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

ORDINANCE NO. ____

AN ORDINANCE MAKING CERTAIN LEGISLATIVE FINDINGS
AND APPROVING THE N. ELIZABETH HOTEL URBAN
RENEWAL PLAN

WHEREAS, by Resolution No. 3295, the City Council of Pueblo ("City Council") authorized and directed the Pueblo Urban Renewal Authority to study an area (the "Area") of Pueblo ("City") to assess if blighting factors exist in the Area and if appropriate, recommend that the City Council consider one or more redevelopment plans to remove any such conditions of blight;

WHEREAS, the Authority contracted with Pioneer Development Company (the "Consultant") to conduct a conditions survey of the Area, which is more particularly described in Exhibit A, attached to and incorporated herein, to determine if the Area contains factors included in the definition of "blighted area" in the Colorado Urban Renewal Law, Sections 31-25-101, *et seq.*, C.R.S., ("Act");

WHEREAS, the Consultant prepared, submitted, and presented to the Authority and City Council a document entitled "Hotel Conditions Survey" ("Survey") dated August 18, 2023, which describes in detail the conditions in the Area and is incorporated herein by this reference;

WHEREAS, the Consultant prepared, and the Authority has presented to the City the proposed North Elizabeth Hotel Urban Renewal Plan ("Plan"), attached hereto and incorporated herein; and

WHEREAS, the City Attorney has reviewed the Plan and approves the Plan as to form, as attached hereto and incorporated herein;

WHEREAS, the aforesaid Plan is a matter of public record in the custody of the City Clerk and is available for public inspection during business hours of the City;

WHEREAS, notice of the public hearing on the Plan was published as required by Section 31-25-107(3), C.R.S., at least thirty (30) days prior to the public hearing;

WHEREAS, the City Council has taken reasonable efforts to provide written notice of the public hearing to all property owners, residents, and business owners in the area included in the Plan ("Urban Renewal Area") informing them of the public hearing at least thirty (30) days prior to the public hearing;

WHEREAS, the City's Planning and Zoning Commission has reviewed the Plan and determined the Plan complies with the City's Comprehensive Plan for development within the City ("Comprehensive Plan"), which is the general plan for the development of the City;

WHEREAS, the Plan contains provisions that anticipate the allocation of property tax increment revenues derived from the levies of taxing entities that levy property taxes in the proposed Urban Renewal Area ("Taxing Entities");

WHEREAS, the Authority has delivered to the Taxing Entities (a) the notice of the public hearing, (a) the Plan, and (c) a copy of an impact report ("Impact Report") prepared by the Consultant that describes the burdens and benefits of the Plan on the revenues and services of such Taxing Entities;

WHEREAS, based on the Impact Report, the Authority has reached agreement with the Taxing Entities regarding estimated impacts on services of the Taxing Entities associated solely with the Plan as required by Section 31-25-107(9.5) of the Act; and

WHEREAS, on January 22, 2024, the City Council conducted a public hearing and reviewed said Plan pursuant to the procedural and notice requirements of the City Charter, and the Act, and the City Council having considered the evidence presented in support of and in opposition to the Plan, the Survey, the City's Comprehensive Plan, and staff recommendations and so having considered the legislative record and given appropriate weight to the evidence.

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

SECTION 1.

The Urban Renewal Area described in the Plan is found and declared to be a blighted area as defined in the Act. This is a legislative finding by the City Council based upon the Survey and other evidence presented to City Council.

SECTION 2.

The boundaries of the Urban Renewal Area have been drawn as narrowly as the City Council determines feasible to accomplish the planning and development objectives of the Plan.

SECTION 3.

The Plan, Impact Report, and notice of the public hearing have been submitted to the Taxing Entities, including the Board of County Commissioners of Pueblo County, Colorado, (the "County") together with the information required by Sections 31-25-107(3.5) and (9.5) of the Act. The Plan will remediate conditions of blight in the Urban Renewal Area.

SECTION 4.

To conform with the representations made to the Taxing Entities by the Authority, the Plan shall be amended as follows:

(a) Section V of the Plan shall be amended and replaced as follows:

- a. PROJECT ACTIVITIES - The following provisions shall apply to the Area. In accordance with the Act, the Authority may undertake these activities directly or, to the extent authorized by applicable law, contract with third parties to do so.

- i. Public Improvements – The Authority may undertake certain actions to eliminate blight and make the Urban Renewal Area and its environs more attractive for private investment. The Authority may or may cause to be installed, constructed, and reconstructed public improvements in furtherance of the Plan, which may include, without limitation, streets, sidewalks, alleys, utility infrastructure, utility service facilities, parks, streetscapes, pedestrian corridors, bicycle facilities, and parking facilities. The Authority also may or may cause to be installed, constructed, and reconstructed any other authorized improvements in furtherance of the Plan, which may include, without limitation, façade improvements, public access ways, public gathering areas, and other improvements. Any such construction or improvements shall be performed in accordance with the City's Comprehensive Plan, City specifications and upon obtaining required City permits and compliance with all applicable laws.
- ii. Redevelopment Agreements – The Authority is authorized to enter into one or more Redevelopment Agreements with developers, landowners, and other entities determined to be necessary or desirable to carry out the purposes of this Plan. Such Redevelopment Agreements may contain such terms and provisions as shall be deemed necessary or appropriate by the Authority for the purpose of undertaking the activities contemplated by this Plan or the Act and may further provide for such undertakings by the Authority, including financial assistance (subject to the limitations contained herein), as may be necessary for the achievement of the objectives of this Plan or as may otherwise be authorized by the Act.
- iii. Redevelopment and Rehabilitation – Redevelopment and rehabilitation actions within the Urban Renewal Area may include such undertakings and

activities as are in accordance with this Plan and the Act, including without limitation: (i) renovation and enhancement of buildings and improvements; (ii) the installation, construction, relocation and reconstruction of public and private improvements; (iii) the carrying out of plans for a program through voluntary action for the repair, alteration, and rehabilitation of buildings or other improvements in accordance with this Plan; and (iv) the taking of such other actions to eliminate unhealthy, unsanitary or unsafe conditions, eliminate obsolete or other uses detrimental to the public welfare, or otherwise remove or prevent the spread of blight or deterioration. In the absence of any Redevelopment Agreement, development, redevelopment, and rehabilitation in furtherance of the Plan must be undertaken in accordance with, as applicable, the building and zoning regulations and other applicable ordinances of the City.

- iv. Cooperation Agreements – For the purposes of planning and carrying out this Plan in the Area, the Authority may enter into one or more cooperation agreements with the City, County, or other public bodies. Without limitation, such agreements may include project financing and implementation; design, location, and construction of public improvements; and any other matters required to carry out this Project. It is recognized that cooperation with the City, County, and other public and private bodies may be required to coordinate such issues as the design, construction, maintenance, operation, and timing of public and private improvements within the Area to properly and efficiently carry out the goals and objectives of this Plan.

- b. Section VI of the Plan shall be amended and replaced as follows:

- i. PROJECT FINANCING –

- 1. Financing Methods: The Authority is authorized to finance the

Project and other activities by several methods, including, but not limited to, the following: appropriations from the City; Property Tax Increment paid pursuant to the Cooperation Agreement; interest income; federal loans or grants; or any other available source of revenue allowable under the provisions of the Act or other applicable laws. The Authority anticipates financing the Project Activities under the Plan through a private placement bond issuance for amounts not to exceed \$3,000,000. In addition, subject to the City's approval under §31-25-107 (7), the Authority is authorized to issue other obligations, incur indebtedness, loans, or advances as contemplated by the Act in an amount sufficient to carry out all or any part of the Project. The principal of, interest on, and any premiums due in connection with such bonds, indebtedness, loans or advances may be paid from Property Tax Increment or any other funds, revenues, assets or properties legally available to the Authority.

2. Cooperation Agreements between the City and the Authority: Before the Authority enters into a Redevelopment Agreement, the City and the Authority shall enter into a Cooperation Agreement.
3. Tax Increment Financing: This Plan contemplates that the primary method of financing the Project and other activities, by the Authority, shall be the use of Property Tax Increment financing under the tax increment financing provisions of C.R.S. § 31-25-107(9), as amended from time to time, which is by this reference incorporated herein as if set forth in its entirety, subject to City Council approval as set forth herein. In accordance with the Act, the

Authority notified the governing bodies of each other public body whose Property Tax Revenues would be allocated under this Plan and negotiated agreements governing the types and limits of tax revenues of each taxing entity to be allocated under the Plan. The Authority has or shall enter into agreements with each taxing entity addressing, without limitation, estimated impacts of the Plan on district services associated solely with the Plan. The allocated shared tax revenues governed by each agreement shall be limited to all or any portion of the taxes levied upon taxable property by the public body within the area covered by the Plan. If there is any conflict between the Act, a Cooperation Agreement, a district agreement and this Plan, the provisions of the Act shall control. For the Urban Renewal Area, all Property Taxes levied after the effective date of the approval of the Urban Renewal Area upon the taxable property in the Urban Renewal Area each year by or for the benefit of the City shall be divided as follows:

- a. In the case of a Property Tax Increment Area, that portion of the Property Tax Revenues that are produced by the levy at the rate fixed each year by or for each public body upon the valuation for assessment of taxable property in the Urban Renewal Area last certified prior to the effective date of approval of such Area in respect of this Plan or, as to an area later added to the Area, the effective date of the modification of this Plan specifying such Area shall be paid into the funds of each such public body as are all other taxes collected by or for such public body.

4. Except as the Authority may legally provide otherwise under the Act, that portion of the Property Tax Revenues in excess of the amounts described in paragraph above shall be allocated to, and when collected, paid into a special fund of the Authority, and may be irrevocably pledged by the Authority for the payment of the principal of, premium, if any, and interest on any bonds of, loans or advances to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the Authority to finance or refinance, in whole or in part, the Project. Unless and until the Property Tax Revenue in excess of the amount as provided in paragraph 1(3)(a) above, all of the Property Tax Revenues for the Urban Renewal Area shall be paid into the funds of the respective public bodies.
5. When such bonds, loans, advances, and indebtedness, if any, including interest thereon and any premiums due in connection therewith, have been paid, with respect to a tax increment but in no event later than twenty-five (25) years following the effective date such Urban Renewal Area is included in this Plan approved by City Council, the total Property Tax Revenues in such Area shall be paid into the funds of the City and the applicable public bodies, respectively.
6. In the event there is a general reassessment of taxable property valuations in the City, including all or part of the Urban Renewal Area, the portions of valuations for assessment attributable thereto under this Part VI shall be proportionately adjusted in accordance with such reassessment or change.

7. The Authority and the City may, by Cooperation Agreement or other agreement, provide for the method by which Property Tax Increment shall be allocated and paid to the Authority pursuant to the provisions of this Plan and the Act. Such agreements, and similar agreements between the Authority and other public bodies, may provide for additional assistance by the City and cooperation between the Authority and the City in support of the Project as may be more fully set forth in the provisions of such Cooperation Agreement or other agreement.

SECTION 5.

Pueblo City Schools (School District No. 60) has been permitted to participate in an advisory capacity with respect to the inclusion in the Plan of the tax allocation provisions authorized by Section 31-25-107(9) of the Act.

SECTION 6.

The Urban Renewal Area contains vacant land, and it is not expected that any relocation of individuals and families will be required in connection with the Plan, therefore, to the extent that any relocation may be required, this activity shall substantially modify the Plan. A feasible method exists for relocating individuals and families to decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such individuals and families.

SECTION 7.

The Urban Renewal Area contains vacant land, it is not expected that any relocation of business concerns will be required in connection with the Plan. To the extent that any such relocation may be required, this activity shall substantially modify the Plan. A feasible method exists for relocating such business concerns in the Urban Renewal Area or other areas that are not generally less desirable with respect to public utilities and public and commercial facilities.

SECTION 8.

The City Council has taken reasonable efforts to provide written notice of the public hearing prescribed by § 31-25-107 (4) (c) of the Act to all property owners, residents, and owners of business concerns in the proposed Urban Renewal Area at their last known addresses at least thirty (30) days prior to the public hearing on the Plan.

SECTION 9.

§ 31-25-107 (4) (d) of the Act does not apply because no more than 120 days have passed since the commencement of the only public hearing on the Plan.

SECTION 10.

§ 31-25-107 (4) (e) of the Act does not apply because the City Council did not fail to previously approve this Plan.

SECTION 11.

The Plan conforms with the City's Comprehensive Plan, which is the general plan for the development of the City as a whole.

SECTION 12.

The Plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the Urban Renewal Area described in the Plan by private enterprise.

SECTION 13.

The entire Urban Renewal Area is within the corporate limits of the City. Construction and maintenance of public improvements and provision of services in the Urban Renewal Area will be the primary responsibility of the Authority and private enterprise. Any impacts on the services or revenues of the Taxing Entities will be offset by new revenues not now being collected by the Taxing Entities and directly produced because of the Plan and subsequent redevelopment of the Urban Renewal Area and adjacent property outside of the Urban Renewal Area.

SECTION 14.

The Urban Renewal Area described in the Plan does not consist of open land within the

meaning of § 31-25-107 (5) and (6) of the Act. Therefore, the findings and determinations set forth in such sections of the Act do not apply and are not required.

SECTION 15.

The Authority is not authorized to acquire property by exercising eminent domain.

SECTION 16.

The North Elizabeth Hotel Urban Renewal Plan has been duly reviewed and considered and is hereby approved as amended herein. The Authority is hereby authorized to take any and all actions pursuant to the Act to carry out the Plan.

SECTION 17.

The officers and staff of the City are authorized and directed to take all actions necessary, appropriate or required to implement the provisions of this Ordinance.

SECTION 18.

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

ATTESTED:

City Clerk



PIONEER
DEVELOPMENT
COMPANY

we find the way

Hotel Conditions Survey

Pueblo Urban Renewal Authority

August 18, 2023



August 18, 2023

City of Pueblo, Colorado

Dear Jerry,

This Conditions Survey is intended to assist the Pueblo Urban Renewal Authority (PURA) with identifying and cataloguing conditions that are arresting sound development throughout a defined survey area. This area is tentatively named the "The Hotel Urban Renewal Plan" (The Project).

The Project will encompass one (1) parcel and approximately 2.1 acres. The area is characterized by deteriorating structures, vacancy, underutilization, and possible environmental contamination. The site's historic uses included mobile homes, a gas station and a laundry mat. Currently, the site is vacant. This property is within Pueblo's B4-Regional Commercial zone and is proximal to major arterials such as Elizabeth Street, US 50 and I-25. The site's zoning and location makes it well suited for new commercial development.

PURA is evaluating this property for blighting factors to potentially create a public private partnership with a prospective development. A Hotel development is in the process of being proposed on this site. However, the site exhibits characteristics that could jeopardize the development's feasibility. PURA has commissioned this study to determine if the property qualifies for Urban Renewal treatment.

The Conditions Survey evaluates this area for the presence of statutorily defined "blighted area factors" (blighting factors). These factors are defined by Colorado's Urban Renewal Law under C.R.S. 31-25-103(2) and are generally conditions that impair or arrest the sound growth of a municipality. The Conditions Survey locates, identifies, and describes each statutorily defined blighting factor found to exist within the proposed plan area. Blighting factors have also been mapped to illustrate the location of these observed conditions throughout the impacted parcel.

Based upon field observations and analysis, this report finds that the surveyed area meets Colorado Urban Renewal Law's statutory minimum of blighting factors required to designate the proposed Hotel Urban Renewal Plan as an urban renewal project eligible for urban renewal activities.

Sincerely,

Andrew Arnold, AICP
Founder | Principal
Pioneer Development Company
Durango, Colorado

CC: Cherish Deeg

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Executive Summary

Pueblo Urban Renewal Authority Conditions Survey:

The Pueblo Urban Renewal Authority (PURA) is evaluating a specific area for an Urban Renewal project and specific activity. The study area includes a single property, and the potential urban renewal project will be designed to remove conditions arresting a potential hotel development from locating on this site. This proposed hotel is facing feasibility issues with this parcel, and the Pueblo Urban Renewal Authority is evaluating site's eligibility for urban renewal treatment. A development-specific urban renewal plan area could help alleviate conditions arresting this development and make the Hotel feasible.

The subject area is located within Pueblo City limits in the central northern section of the city, south of the I-25, Hwy 47, and Hwy 50 junction. The survey area is adjacent to North Elizabeth Street on the west and I-25 is adjacent on the east. Ingress and egress is taken off of Elizabeth Street.

The survey area includes one (1) parcel within Pueblo's municipal limits. The parcel encompasses 2.1 acres and includes is zoned B4-Regional Commercial. The subject area is characterized by vacant land, potential environmental contamination, a deteriorated structure, deteriorating or missing infrastructure, and evidence of homelessness. The survey area's historic uses include a former dry cleaner as well as a gas station. These uses have a high propensity to leave underground storage tanks and cause environmental contamination. This conditions survey evaluated both Phase 1 and Phase 2 Environmental Site Assessments (ESA's) performed on the property. These ESA's did not identify soil contamination that exceeded CDPHE standards. However, asbestos abatement is required on the former laundromat. The ESA's also made clear that there is a possibility for environmental contamination elsewhere on the site, and that underground storage tanks could be present. The survey area's characteristics make future development challenging and is the reason why PURA is evaluating this site for Urban Renewal treatment.

For an Urban Renewal Plan to be established, a specific geographic area within the community must be found to exhibit certain conditions. These are conditions that, in general, are arresting the sound growth of a municipality. This could include conditions that impair a municipality's growth, retards housing development and accommodations, or constitutes a liability for economic or community development. Statute describes these conditions as a "menace to public health, safety, morals, and welfare" and defines these conditions as eleven separate factors in C.R.S. 31-25-103.2. These factors must be cataloged before urban renewal projects and activities can commence.

A conditions survey does not create a new Urban Renewal Plan or Urban Renewal Project. The Conditions Survey is merely a starting point for that process, one that is required before PURA can establish The Hotel Urban Renewal Plan. The Conditions Survey's purpose is to evaluate the proposed Plan area and determine if it meets the statutorily required threshold of blighted area factors. Four (4) of these factors must be identified before an Urban Renewal Plan can be established and adopted.

The proposed Urban Renewal Plan area was carefully surveyed using a holistic analysis. Observations were taken during a field visit that identified the presence of statutorily defined blighting factors throughout the area. These observations were supplemented with background research on the site and market characteristics, including examination of the environmental site assessments.

The Conditions Survey's conclusion is that the proposed Urban Renewal Plan area exhibits the necessary number of blighting factors to make it eligible as an Urban Renewal Plan according to state statute. This Conditions Survey identified ten (10) blighting factors within the area, listed in the table below:

Conditions Survey – Blighting Factors Catalogued	
Blighted Area Factor # (C.R.S. 31-25-103.2 List Label)	Definition
Factor 1 (a)	Slum, Deteriorated, or Deteriorating Structures.
Factor 2 (b)	Predominance of Defective or Inadequate Street Layout
Factor 3 (c)	Faulty Lot Layout in Relation to Size, Adequacy, Accessibility, or Usefulness
Factor 4 (d)	Unsanitary or Unsafe Conditions
Factor 5 (e)	Deterioration of Site or Other Improvements
Factor 6 (f)	Unusual Topography or Inadequate Public Improvements or Utilities
Factor 8 (h)	The Existence of Conditions that Endanger Life or Property by Fire or Other Causes.
Factor 9 (i)	Buildings that are Unsafe or Unhealthy for Persons to Live or Work in Because of Building Code Violations, Dilapidation, Deterioration, Defective Design, Physical Construction, or Faulty or Inadequate Facilities.
Factor 10 (j)	Environmental Contamination of Buildings or Property.
Factor 11 (k.5)	The Existence of Health, Safety, or Welfare Factors Requiring High Levels of Municipal Services or Substantial Physical Underutilization or Vacancy of Sites, Buildings, or Other Improvements

Historic uses on the site included a gas station, a mobile home park, and a dry cleaner. The 2,093 square foot masonry building served as a dry cleaner and was built in 1975. The vacant lot on the eastern side of the parcel has remnants of the mobile home park with old concrete pads, concrete debris piles, old utility hookups, and an overgrown center access driveway.

The parcel's B-4 Regional Business zoning "provides areas for the location of business and other central services required by the region at large"¹ The uses by right allowed in the B-4 zone district include **hotels**, auditorium, banquet hall, community center, library, museum, office, pharmacy, and other similar commercial uses.

The regional comprehensive plan's future land use map designates this site as a mixed-use activity center². Mixed-use activity centers contribute at the regional scale in addition to encompassing a diversity of use types and connectivity features³.

The proposed hotel development aligns with both the comprehensive plan and City's zoning for this property. The properties existing characteristics are not achieving the developments or vision outlined within the City's zoning or comprehensive plan.

The Plan Area's statistics are described in the table below:

Conditions Survey Land Use Summary			
Area Statistics			
Total Parcel Area (Acres)	2.1		
Number of Parcels in Area	1		
Assessment Type	Parcel Count	Acreage	Percent Total Acreage
COMMERCIAL	1	2.1	100%
Zoning Type	Parcel Count	Acreage	Percent Total Acreage
B-4: Regional Business	1	2.1	100%
Assessed Value			Value
Total Actual Value			\$296,740
Total Assessed Value			\$90,062
Tax Exempt Value			\$0

¹ Pueblo Planning & Community Development, Zone District: B-4, p. 2-4-2022, <https://www.pueblo.us/DocumentCenter/View/30870/B-4--12-20-21?bidId=>

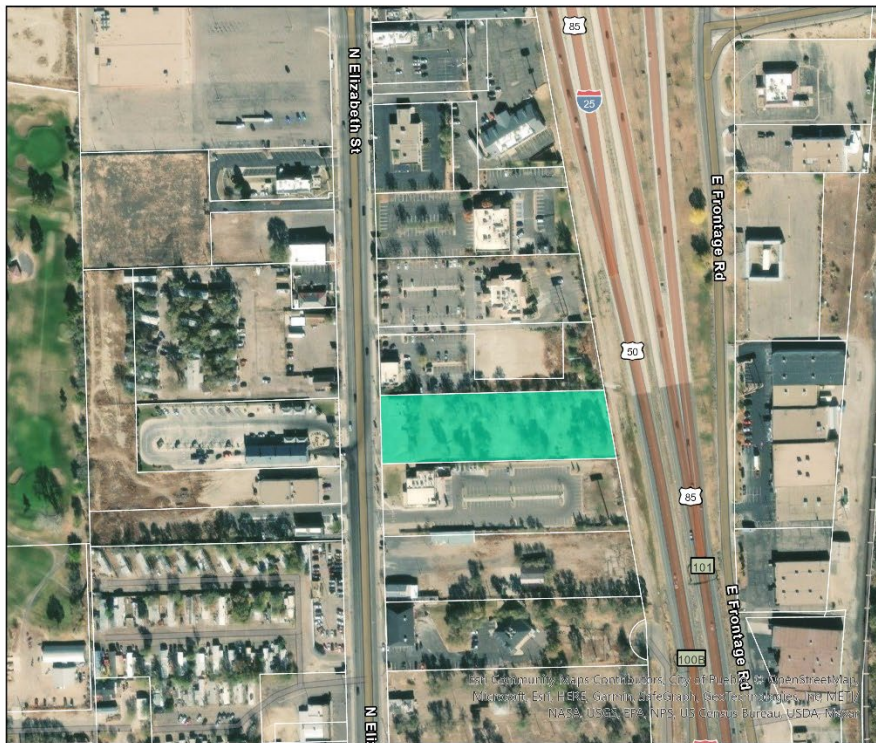
² Pueblo Regional Comprehensive Plan, 2022, p. 130 https://county.pueblo.org/sites/default/files/2022-10/PuebloRegionalComprehensivePlan_Sept22_R.pdf

³ Pueblo Regional Comprehensive Plan, 2022, p. 114 https://county.pueblo.org/sites/default/files/2022-10/PuebloRegionalComprehensivePlan_Sept22_R.pdf

Current Assessment of Plan Area

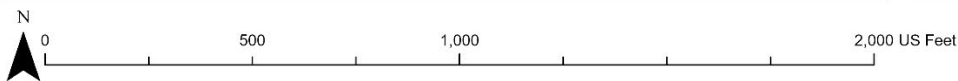
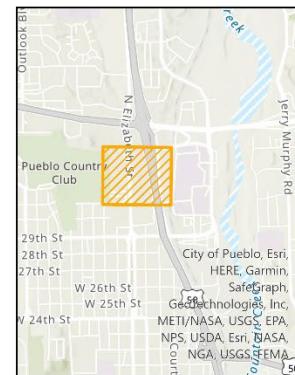
The Plan area includes one (1) parcel. The total equalized assessed value (taxable value) of this parcel, according to the County Assessor's database 2023 valuations, is \$90,062. The total actual value of this parcel, according to the County's Assessor's database 2023 valuations is \$296,740.

Conditions Survey Area



Legend

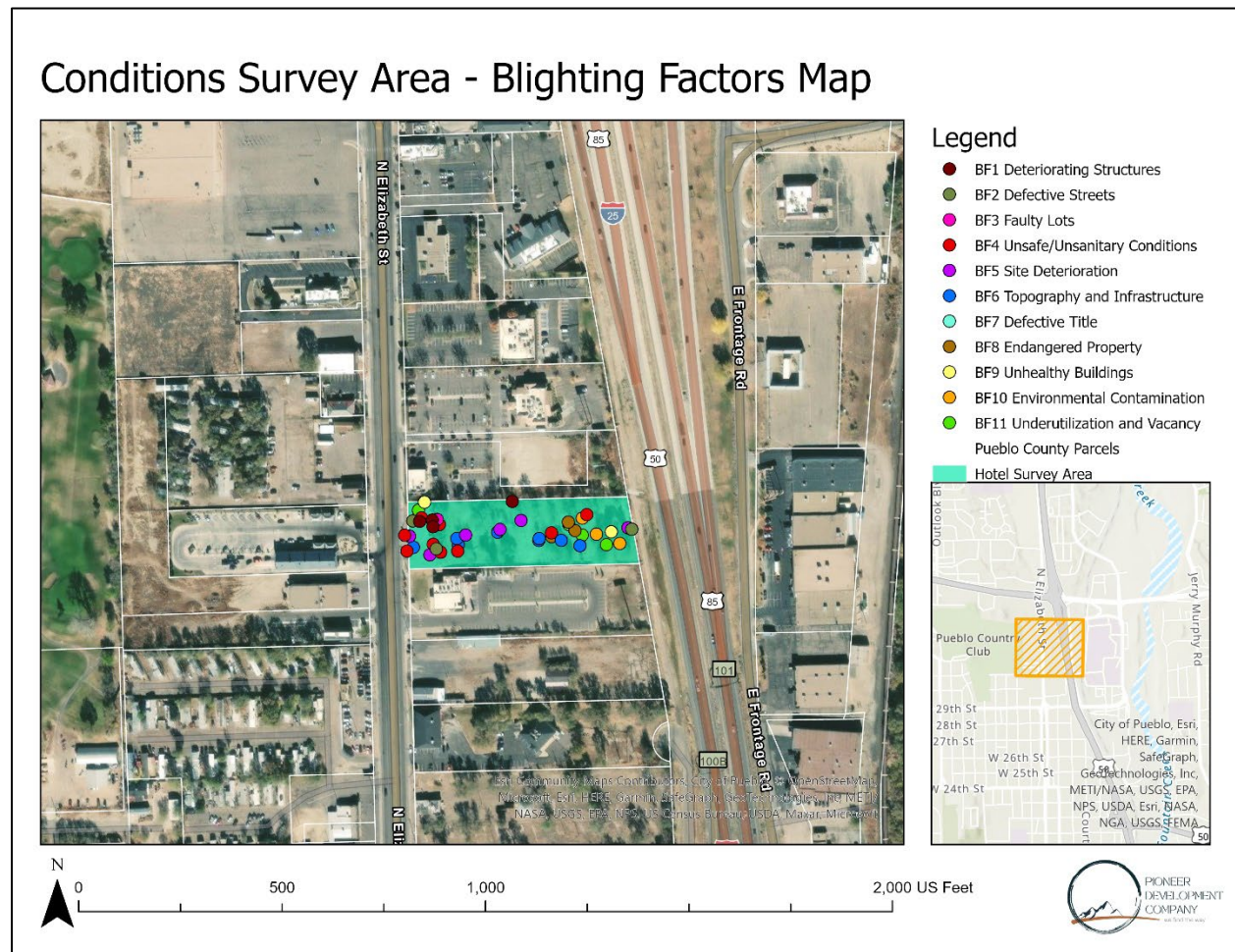
- Pueblo County Parcels
- Hotel Survey Area



Methodology

This Conditions Survey utilized a holistic methodology in determining whether blighting factors exist within the proposed Urban Renewal survey boundary. This methodology included a detailed literature review of adopted plans and reports, an analysis of County Assessor records and GIS databases, and a field visit. Field work was supplemented by GIS technology that geolocated and recorded potential blighting factors throughout the survey area. Maps were created for each blighting factor identified within the survey area. These maps represent the layered information gathering approach used in this report to ensure that each blighting factor was thoroughly analyzed.

Conditions Survey Area - Blighting Factors Map



Evaluation of Blighting Factors

Defining Blighting Conditions

Colorado Revised Statutes 31-25-103 states that for an Urban Renewal Plan area to be established, there must exist certain conditions known as “blighted area factors” (Blighting Factors). State statute defines eleven separate factors for blight. The law indicates that if four or more of these factors are found in an area of the municipality, that area may be declared blighted and qualify for urban renewal treatment⁴.

Blighted Area Factors Defined:

- a) Slum, deteriorated, or deteriorating structures
- b) Predominance of defective or inadequate street layout
- c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness
- d) Unsanitary or unsafe conditions
- e) Deterioration of site or other improvements
- f) Unusual topography or inadequate public improvements or utilities
- g) Defective or unusual conditions of title rendering the title nonmarketable;
- h) The existence of conditions that endanger life or property by fire or other causes
- i) Buildings that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities
- j) Environmental contamination of buildings or property
- k) The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements

These eleven factors define the “conditions” that are arresting the municipality’s sound development. Per statute, these factors give “reason” to declare an area “blighted”, provided that a specific number of factors are identified. The presence of at least four of these conditions satisfies the state statute defining an area blighted.

This Conditions Survey will unpack each blighting factor to describe various real world “conditions” that indicate the presence of said factor. An Urban Renewal Plan or Project requires at least four factors identified within its boundaries. It is the culmination of four or more blighting factors which indicate that renewal activities should be applied within the proposed project area.

Blighting Factors were identified based on an objective analysis and urban renewal best practices. The following sections outline the blighting factors found within the survey area. Blighting factors that were not identified are excluded from this report.

⁴ In addition to this list, C.R.S. 31-25-103(2) lists a twelfth condition. This final condition only applies when there is unanimous agreement among affected property owners that their properties can be included in an Urban Renewal Area. In this occurrence, only one blighting factor from the list of eleven needs to be identified to declare the area blighted.

Factor (a) – Slum, Deteriorated, or Deteriorating Structures

Description:

This factor refers to the current condition of structures in the survey area as a whole. When the physical condition of structures in an area foment negative perceptions and a corresponding decline in values, it typically signals the existence of this factor. Conditions that would justify the inclusion of this factor in an area may include:

- A deterioration of the building elements, such as cladding, fenestration, roofing, overhangs, fascia and soffit, or the foundation of a structure
- A deterioration of outside elements such as fencing, gates, fire escapes, outdoor lighting, loading areas, gutters and downspouts
- Vacant lots or high vacancy rates in the offices/businesses/apartments are evidence this factor exists in an area
- Decline in property value over time

Findings

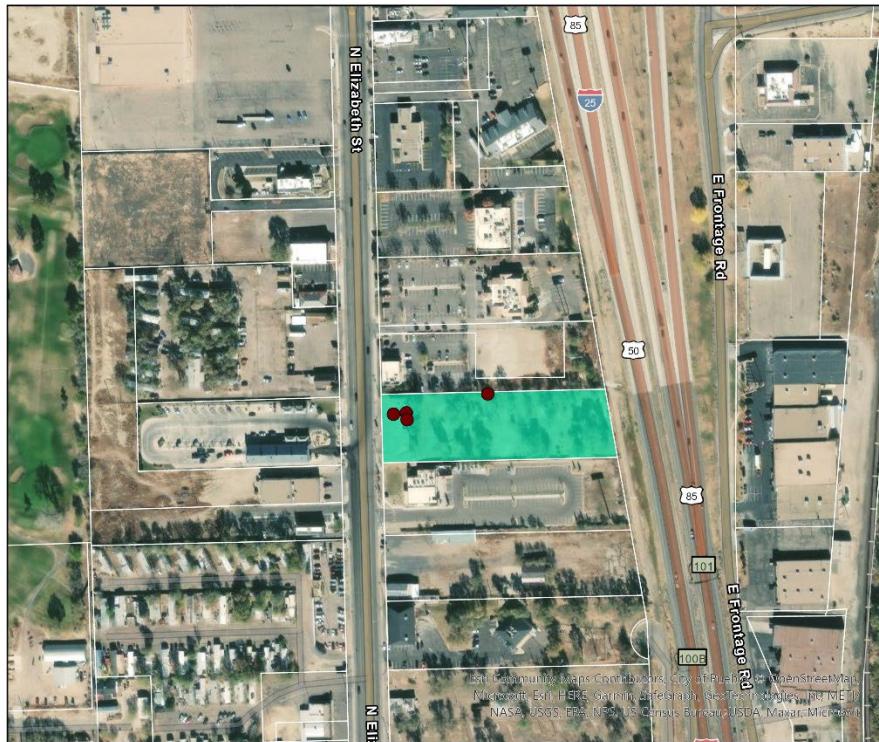
The field visit identified a deteriorating structure and other deteriorating conditions throughout the Survey Area. The deteriorating structure is the former dry-cleaning building, located in the northwest corner of the site. The site also exhibits vacancy, as well as overgrown weeds and neglected features such as fencing throughout the survey area.

The former dry-cleaning building exhibited vacancy and external deterioration. The building is empty with “for sale” signs in various locations. The external deterioration includes cracking, paint disrepair, signs of further structural damage, and foundation concerns.

The other conditions present include landscaping and fencing deterioration. The landscaping has been neglected which has led to vast plant and weed overgrowth throughout the survey area. The existing fencing is in disrepair with parts that are bent and fence posts that have been tampered with. There are also remnants of former fencing scattered throughout the site which includes aged fence posts and missing wiring.

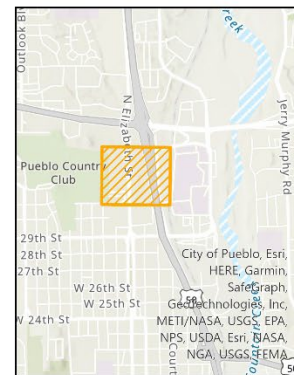
Overall, the site exhibits conditions that foment negative perceptions of the property. These conditions underscore the site’s deterioration and justify the inclusion of this blighting factor.

Blighting Factor (a) - Deteriorating Structures

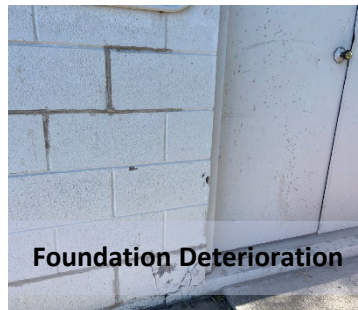


Legend

- BF1 Deteriorating Structures
- Pueblo County Parcels
- Hotel Survey Area



Building Deterioration



Foundation Deterioration



Landscaping Deterioration



Fencing Deterioration



Building Disrepair



Vacant Building

Factor (b) – Predominance of Defective or Inadequate Street Layout

Description:

This factor refers to surface transportation conditions throughout the survey area. Surface transportation conditions may include road surface quality, the location or existence of streets and sidewalks, multi-modal improvements, traffic safety infrastructure, ingress/egress locations, and emergency access considerations. If surface transportation conditions exist that negatively impact sound development, redevelopment, or threaten safety, the survey includes this factor in its catalogue.

Examples of this factor include:

- Inadequate street widths
- Lack of streets, dead ends
- Overall faulty layouts that impede vehicular access and internal circulation
- Inadequate Traffic Safety facilities
- Streets that exhibit high degrees of traffic or accidents
- Streets that are in need of repair or reconstruction
- Poor emergency access or active transportation

Findings

This blighting factor was identified within the survey area. The survey area exhibited inadequate street networks, proximity to heavy traffic, streets in need of repair, poor emergency access and poor active transportation.

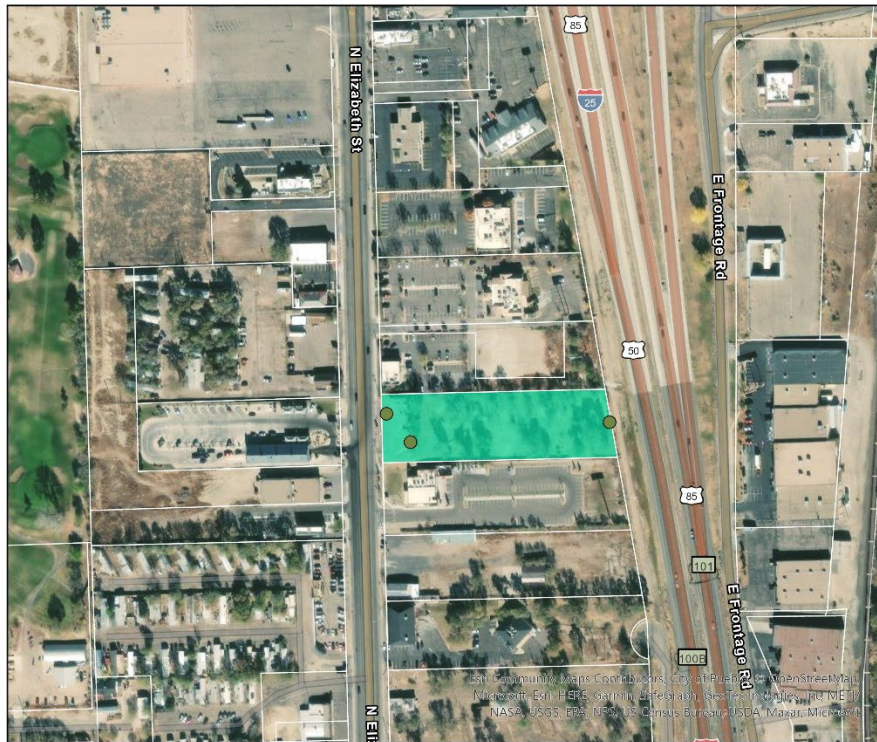
Most of the survey area is a former mobile home area which no longer has functioning streets or connection to existing street networks. The former road through the center of the mobile home park is overgrown, nonfunctional and is no longer actively connected to existing street networks. The connection is obstructed by a gate near the southwest corner of the survey area between the lower level of the former mobile home area and the upper level of the former dry cleaner.

The survey area is affected by two heavy traffic corridors. Elizabeth Street, on the west side of the survey area, is a four-lane heavy traffic area with a turning lane in the center to account for the diversity of businesses on either side. I-25 on the east side of the survey area is a major six-lane divided highway.

The existing streets in the survey area need repair as there is evidence of weathering, neglect, and nonuse. The southwest corner access point into the survey area has weathering conditions and has an inadequate street network setup. The survey area is divided by a former driveway that dead ends and a dilapidated former parking lot.

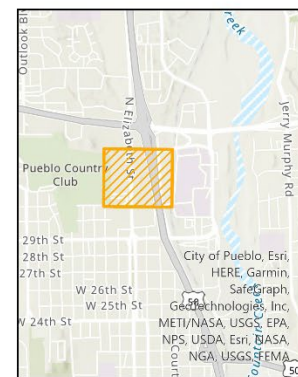
There is overall poor emergency access and active transportation present within the survey area. The neglected network through the survey area, gate division, and deteriorating streets hinder emergency access and active transportation. The street conditions and lack of improvements signal this factor's presence.

Blighting Factor (b) - Defective Streets



Legend

- BF2 Defective Streets
- Pueblo County Parcels
- Hotel Survey Area



Heavy Traffic



Deteriorating Street



Inadequate Street Network



Gate Division

Factor (c) – Faulty Lot Layout in Relation to Size, Adequacy, Accessibility, or Usefulness

Description:

This factor refers to shapes, layout and sizes of lots that complicate sound development and the usefulness of the property. Common conditions that indicate this factors presence in a survey area includes:

- Impractical Lot Layouts
- Narrow, Irregular, or Oddly Shaped Parcels
- Parcels Too Large or Too Small to Facilitate Development
- Lot Configurations that Yield Unproductive Conditions on the Land as Exhibited by Misuse or Nonuse
- Easements or Setbacks that Yield Unproductive Conditions on the Land as Exhibited by Misuse or Nonuse.

Findings

The survey area showcases nonuse and misuse related to lot configuration. Although this parcel is traditionally shaped, its former uses and current underutilization has led to lot configurations that are unproductive. The site is effectively divided into two parts, with the former mobile home park from the 1960's occupying its eastern half, and the former gas station/laundromat occupying the western half. A gate divides these historic uses and the property. This configuration, including the internal road layout and parking lot, yield unproductive lot layouts.

The property's internal lot layout has led to misuse of the space. Homelessness and vandalism are evident by the trash and debris located throughout the site. The former dry cleaner and parking lot are vacant and deteriorating while the former mobile home park is overgrown and appears to have been unused for decades.

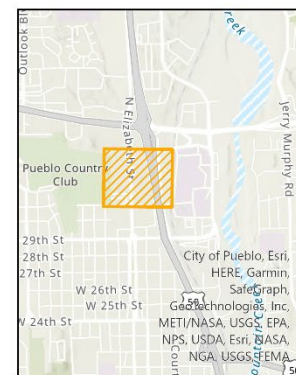
The unproductive conditions on the site, evidenced by the property's nonuse and misuse, showcases this factor.

Blighting Factor (c) - Faulty Lots



Legend

- BF3 Faulty Lots
- Pueblo County Parcels
- Hotel Survey Area



Land Nonuse



Misuse Evidence

Factor (d) – Unsanitary or Unsafe Conditions

Description:

This factor refers to a multitude of unsanitary, unsafe or hazardous conditions. The commonality is that these conditions contribute to hazards that could have an adverse effect on the health, safety or wellbeing of the public. This factor shares similarities to conditions one (1), five (5), eight (8), nine (9) and ten (10). Conditions that would justify the inclusion of this factor in an area may include:

- Floodplain or flood prone areas
- Poor storm water drainage areas
- Cracked or uneven sidewalks
- Hazardous materials
- Hazardous geology or soil conditions
- Dangerous traffic or pedestrian conditions
- High crime statistics
- Facilities are prone to fire dangers
- Environmental contamination
- Inadequate utility systems
- Water scarcity and lack of water and sewer infrastructure
- Evidence of vandalism or homelessness
- Steep topography
- Trash, debris and noxious weeds

Findings

This factor includes multiple conditions identified within the survey area. The conditions include poor storm water drainage areas, cracked sidewalks, dangerous pedestrian conditions, hazardous soil conditions, steep topography, evidence of vandalism and homelessness, and the presence of trash.

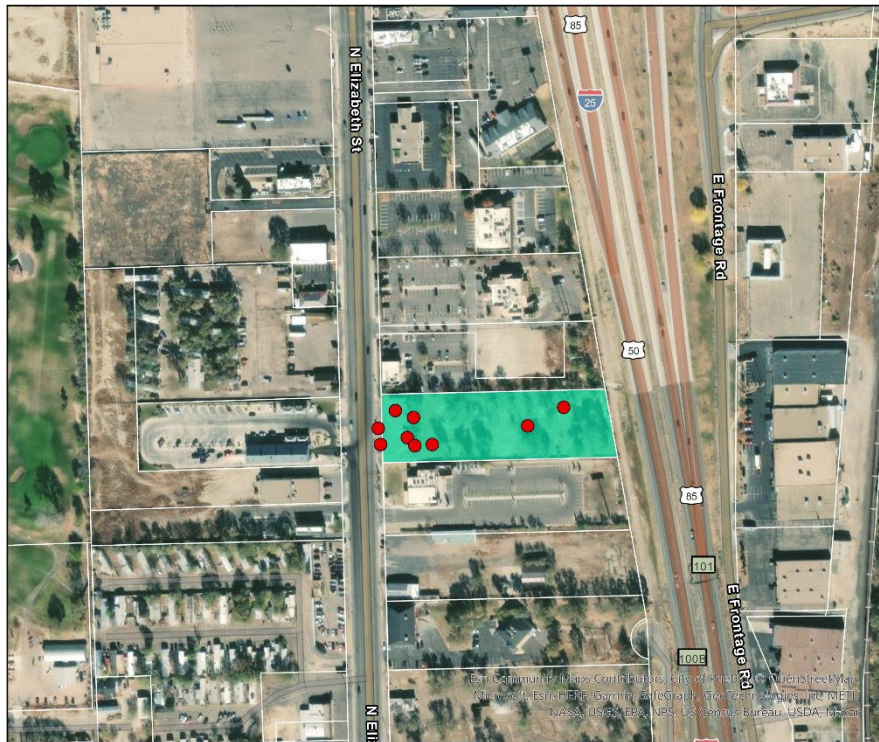
The eastern portion of the survey area is missing storm water drainage infrastructure with the overgrowth and land vacancy. The western section of the survey area lacks storm water drainage infrastructure and has dilapidated parking surfaces.

Sidewalks present in the survey area are in disrepair with cracks and weed overgrowth that impact the site's walkability and aesthetics. In addition to sidewalk conditions, the overall pedestrian experience is dangerous as the survey area is adjacent to the heavily trafficked corridor of Elizabeth Street. This arterial exhibits 4 lanes and a center turning lane. Various vehicles, from cars to large trucks, travel at high speeds along Elizabeth Street, causing unpredictable traffic patterns. The pedestrian conditions along Elizabeth Street have limited protection and no formal separation from moving traffic.

Hazardous soil elements were another condition highlighting the presence of this factor. The contamination soil elements are outlined in depth in the ESA Phase I and ESA Phase II. Although the Phase 2 ESA found evidence of contaminants, these levels did not exceed CDPHE thresholds. However, the ESA's did preclude the possibility of contamination elsewhere throughout the site. The site was previously a gas station, mobile home park, and dry cleaner, all of which have a high propensity for contamination. Also, the former laundromat requires asbestos abatement.

Evidence of vandalism and homelessness, along with the presence of trash throughout the site, further showcases the presence of this factor. Vandalism was evident also, as the former laundromat had a broken window and other structures had been graffitied.

Blighting Factor (d) - Unsanitary/Unsafe Conditions



Legend

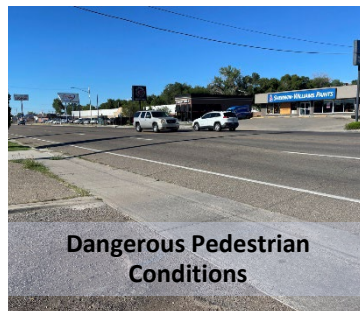
- BF4 Unsafe/Unsanitary Conditions
- Pueblo County Parcels
- Hotel Survey Area



0 250 500 1,000 US Feet



Cracked Sidewalk



Dangerous Pedestrian Conditions



Building Vandalism



Graffiti Vandalism



Homelessness Evidence



Trash

Factor (e) – Deterioration of Site or Other Improvements

Description:

This factor considers conditions of the site or its infrastructure. It is similar to factor two (2) and four (4), in that it focuses is on the deterioration of exterior elements, and/or the current condition of public infrastructure. A visual deterioration of exterior elements, or a decline of public infrastructure, are examples of this factor. Private land and/or structures that have fallen into disrepair or are damaged also exhibit this factor. Conditions that would justify the inclusion of this factor in an area may include:

- Poor condition of streets or sidewalks
- Signage, such as billboards, that has fallen into disrepair
- Neglected Landscaping
- Damaged or missing public utilities
- Abundance of trash, debris or noxious weeds.

Findings

This factor includes conditions that contribute to a negative perception throughout the survey area. These conditions may include deteriorating outside elements such as signage, trash and debris, neglected landscaping, and missing public infrastructure. Many of these conditions were also identified in Factor 1 and Factor 4.

Sign disrepair was evident in both the west and east side of the survey area. A dilapidated dry cleaners sign hung near Elizabeth Street and an unreadable sign hung on the property's eastern boundary near I-25.

In addition to sign disrepair, the streets within the survey area are in poor condition. The road on the east side of the area proximal to I-25 is an unpaved road, and the ingress/egress with Elizabeth Street is deteriorating, blocked by a gate that transitions down into a nonfunctional, overgrown former road.

Neglected landscaping and missing public utilities were evident in the study area and further highlight the presence of this factor. Deferred landscaping and maintenance are evident throughout the site, with overgrown weeds and abandoned mobile home pads, fencing, and other elements characterizing the property. Evidence of former utilities were identified on the property's eastern boundary that includes the former mobile home park, but these are now nonfunctioning.

Additionally, there was an abundance of trash, debris, and weeds throughout the area. Evidence of squatting and homelessness were also observed within the survey area. Concrete debris piles were also found scattered across the property.

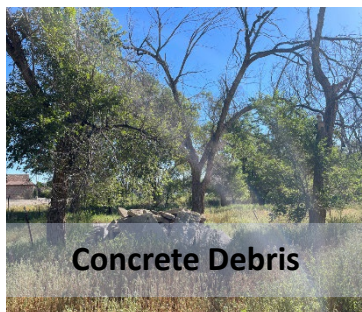
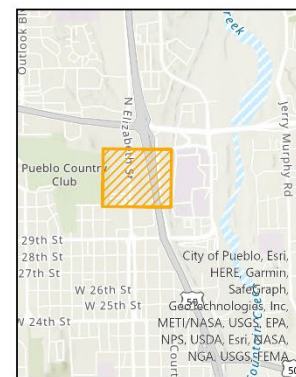
The combination of signage, street disrepair, neglected landscaping, and trash, debris, and weeds in the survey area justified this blighting factor's inclusion.

Blighting Factor (e) - Site Deterioration



Legend

- BF5 Site Deterioration
- Pueblo County Parcels
- Hotel Survey Area



Concrete Debris



Sign Deterioration



Former Sign Remnants



Missing Utilities



Poor Road Condition



Weeds & Debris

Factor (f) – Unusual Topography or Inadequate Public Improvements or Utilities

Description:

This factor refers to unusual topography or lack of public infrastructure that have the effect of arresting sound development in a study area. Areas that exhibit steep grades which cause development to be incompatible or unprofitable would fall under this factor. Properties that are lacking public infrastructure, or are served by deteriorating public infrastructure, would also fall under this factor. This factor shares aspects of factors two (2), four (4) and five (5). Conditions that justify the inclusion of this factor in an area may include:

- Steep slopes or unusual terrain
- Overhead utilities in need of repair
- Deteriorating parking lots, street surfaces, sidewalks
- Poor storm water drainage facilities
- Lack of central sewer or water
- Lack of internal street network
- Broken or inadequate street lighting

Findings

Blighting factors two (2), four (4) and five (5) identified conditions that also underscore the presence of blighting factor six (6) within the survey area. Inadequate public improvements or infrastructure, such as the missing road networks in factor two (2), and missing stormwater facilities identified in factor four (4) also serve as examples of blighting factor six (6).

The survey area's varying topography was the most obvious reason for this factor's inclusion. There is a distinct grade separation as the site transitions west to east. This grade separation is highlighted by a retaining wall/fence structure bisecting the site. The vacant, former laundromat sits at a higher elevation than the vacant land of the former mobile home park. The land towards the east continues to slope down towards I-25. The steep topography presents a formidable development challenge that will require significant grading to activate the entire site. This grading also presents significant development costs.

The fieldwork found overhead utilities in need of repair with old street lighting and other overhead utility posts and wiring in poor condition. These dilapidated infrastructure improvements were found within the former mobile home park section of the property.

The parking lots and street surfaces within the property were also deteriorating. Cracks, uneven surfaces, potholes, missing gravel sections, and weed overgrowth were observed during the site visit. The streets were in such disrepair and deterioration that there is no longer a functioning internal street network.

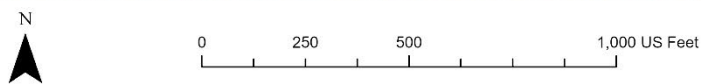
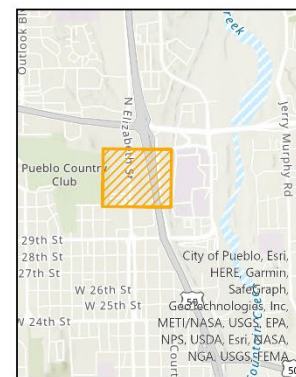
The presence of each of these conditions justifies this blighting factor's inclusion.

Blighting Factor (f) - Topography and Infrastructure



Legend

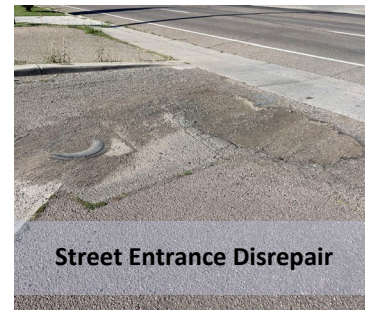
- BF6 Topography and Infrastructure
- Pueblo County Parcels
- Hotel Survey Area



Steep Slope



Overhead Utilities in Disrepair



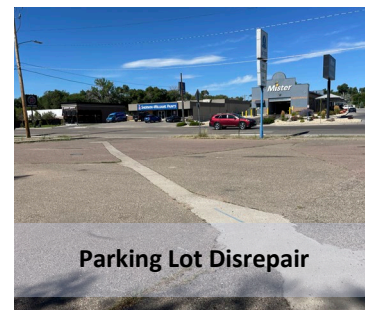
Street Entrance Disrepair



Missing Street Network



Old Street Lighting



Parking Lot Disrepair

Factor (h) – The Existence of Conditions that Endanger Life or Property by Fire or other Causes

Description:

This factor refers to conditions that can endanger lives or property, including buildings that are structurally unsafe, but it also focuses on natural hazards. This factor shares similarities with factors two (2), four (4) five (5) and eleven (11). Conditions that would justify the inclusion of this factor in an area may include:

- Buildings or property not in compliance with current fire codes
- Buildings or property not in compliance with building codes
- Areas that are in a floodplain or flood prone area
- Areas near burn scares, in debris fans or prone to dangerous mud flow
- Areas that exhibit a high crime rate
- Areas with buildings or land that violates environmental regulations (this can range from findings of asbestos or brownfield sites.)

Findings

As mentioned in Blighting Factor Four (4), the survey area has contamination present as found in the asbestos abatement and the ESA Phase I and ESA Phase II. The site was formerly a gas station, mobile home park and dry cleaners, uses that have a high propensity for environmental contamination.

The ESA phase II included both soil samples and groundwater samples. Contaminants were found during Phase II, but they did not exceed the CDPHE limit. However, the Phase 2 ESA explained that there may be additional contaminants, including underground storage tanks elsewhere on the site. Even though the contaminants found were not in excess of state standards, the information provided by the Phase 2 ESA provided enough evidence to meet this blighting factor's threshold.

In addition to soil and groundwater considerations, the former laundromat requires asbestos abatement. Tiles uses in the building must be removed prior to any redevelopment of the property.

The environmental contamination in the survey area justified the inclusion of this factor in the conditions survey.

Blighting Factor (h) - Endangered Property



Legend

- BF8 Endangered Property
- Pueblo County Parcels
- Hotel Survey Area



Factor (i) – Buildings that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities

Description:

This factor refers to conditions that make buildings unsafe and unfit for employees to work in or residents to live in. It shares similarities with the conditions presented in factors one (1), four (4), five (5) and eight (8). Conditions that would justify the inclusion of this factor in an area may include:

- Buildings that are dilapidated or deteriorating
- Poor physical design
- Inadequate facilities
- Building code violations (age of the building may justify this condition)

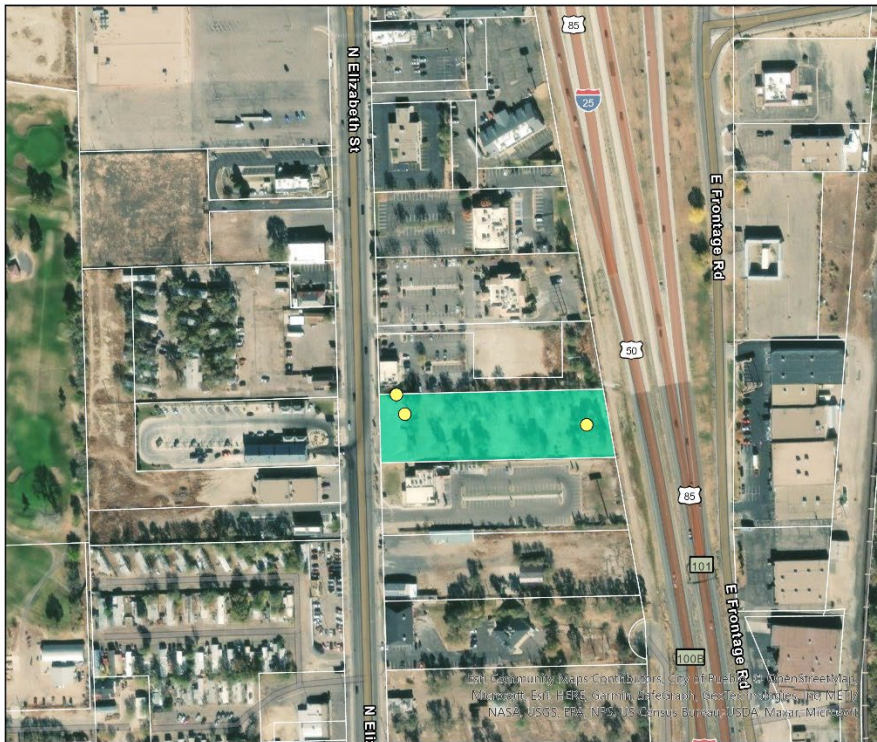
Findings

This analysis focused on structures that were physically dilapidated as evidence of this blighting factor. Fieldwork identified the masonry former dry-cleaning building as one that is deteriorating has poor physical design with uninviting elements.

The masonry building as mentioned in factor 1, has deteriorating elements throughout ranging from foundation concerns to elements on the side of the building. The design of the building is outdated, has limited relation pedestrians, and no interaction with the eastern section of the area. The main design feature of the building is the parking lot which provides some relation to the road.

The presence of these conditions justifies the inclusion of this survey.

Blighting Factor (i) - Unhealthy Buildings

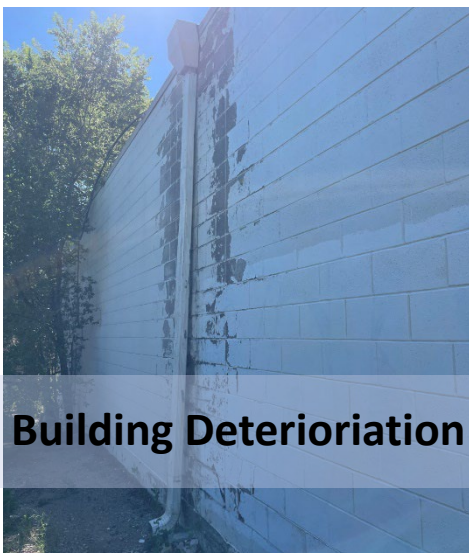


Legend

- BF9 Unhealthy Buildings
- Pueblo County Parcels
- Hotel Survey Area



0 250 500 1,000 US Feet



Building Deterioration



Uninviting Building Design

Factor (j) – Environmental Contamination of Buildings or Property

Description:

This factor refers specifically to the environmental contamination of buildings or property. In this regard, it shares many similarities with factors four (4) and eight (8). Conditions that would justify the inclusion of this factor in an area may include:

- The presence of hazardous materials in buildings or property

Findings

As previously described in Factor Four (4) and Factor Eight (8), the survey Area has contaminated soil. In addition to the former gas station and dry-cleaning history, the fieldwork found needles which are a biohazard in the survey area.

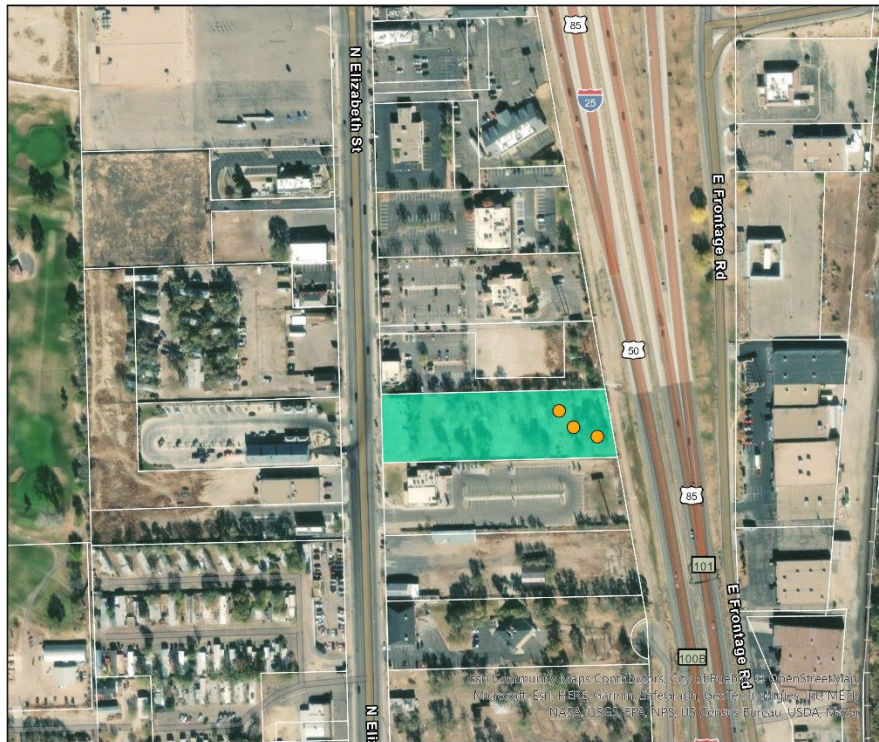
Potential contaminants and storage tank presence were noted by the ESA Phase I conducted and was followed by an ESA Phase II. The ESA Phase I recognized the former dry cleaning and gas filling uses, potential asbestos, radon possibility, and biohazard waste. The ESA Phase I noted storage tank history of the site with tank removal in 1997, along with additional unexpected storage tank findings in 2005.

The ESA Phase II found contaminants, but they did not exceed the CDPHE limit. Even though the contaminants were not found in excess, there was enough to meet the threshold for this blighting factor. New development on the site will require asbestos abatement as well. The abatement will include tile removal in the masonry former dry-cleaning building.

Biohazard materials were found during fieldwork with the presence of needles in the vacant lot eastern section of the site.

The presence of the various hazardous materials throughout the survey area justified the inclusion of this factor in this conditions survey.

Blighting Factor (j) - Environmental Contamination



Legend

- BF10 Environmental Contamination
- Pueblo County Parcels
- Hotel Survey Area



Former Dry Cleaner



Needle Biohazard

Factor (k.5) – The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements

Description:

This factor references a broad category of health, safety and welfare factors. The common conditions for this factor to be present are instances where high levels of municipal service are required, substantial physical underutilization of property is exhibited, or high levels of vacancy are common. Vacancy can include land, buildings, or tenancy. This factor shares similarities with many of the factors on this list. Conditions that would justify the inclusion of this factor in an area include:

- Numerous vacant buildings or property throughout the area
- Evidence of underutilized buildings
- Underutilized or vacant sites
- Broken or inadequate street lighting

Findings

The survey area is characterized by vacant and underutilized parcels. The land itself is largely vacant, especially the former mobile home park on the property's east side. This former mobile home park is overgrown, and the mobile home pads are visibly deteriorating. As mentioned in Factor 6, overhead utilities and light poles also appeared dilapidated and unused throughout this area.

The property also exhibits vacant buildings. The former dry-cleaning building on the west side of the area is vacant, with broken and boarded up windows and for sale advertisements plastered to its walls. The masonry former dry-cleaning building is empty inside other than components of former clothing racks attached to the ceiling.

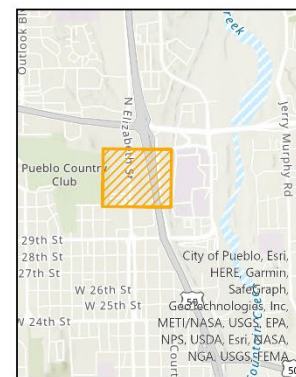
The level of vacancy and underutilization is direct evidence for the inclusion of this blighting factor.

Blighting Factor (k.5) - Underutilization or Vacancy



Legend

- BF11 Underutilization and Vacancy
- Pueblo County Parcels
- Hotel Survey Area



0 250 500 1,000 US Feet



Vacant Property



Underutilized Site



Vacant Building

Conclusion

This Conditions Survey catalogs the presence of statutorily defined blighting factors within the proposed Hotel Urban Renewal Plan area. This report was designed to assist Pueblo URA in determining whether this area is 1) eligible for urban renewal projects and activities, and 2) that the proposed boundary is drawn as narrowly as possible.

This Conditions Survey identified ten (10) blighted area factors as defined by Colorado's Urban Renewal Law, within the City's municipal limits. The presence of ten blighting factors meets the requirements outlined in (C.R.S. 31-25-104), in which at least four blighting factors must be present for that area to be declared "blighted" and therefore eligible to be designated as an Urban Renewal Plan area.

The proposed boundary also meets the statutory recommendation of "being drawn as narrowly as possible". The proposed boundary includes a single parcel.

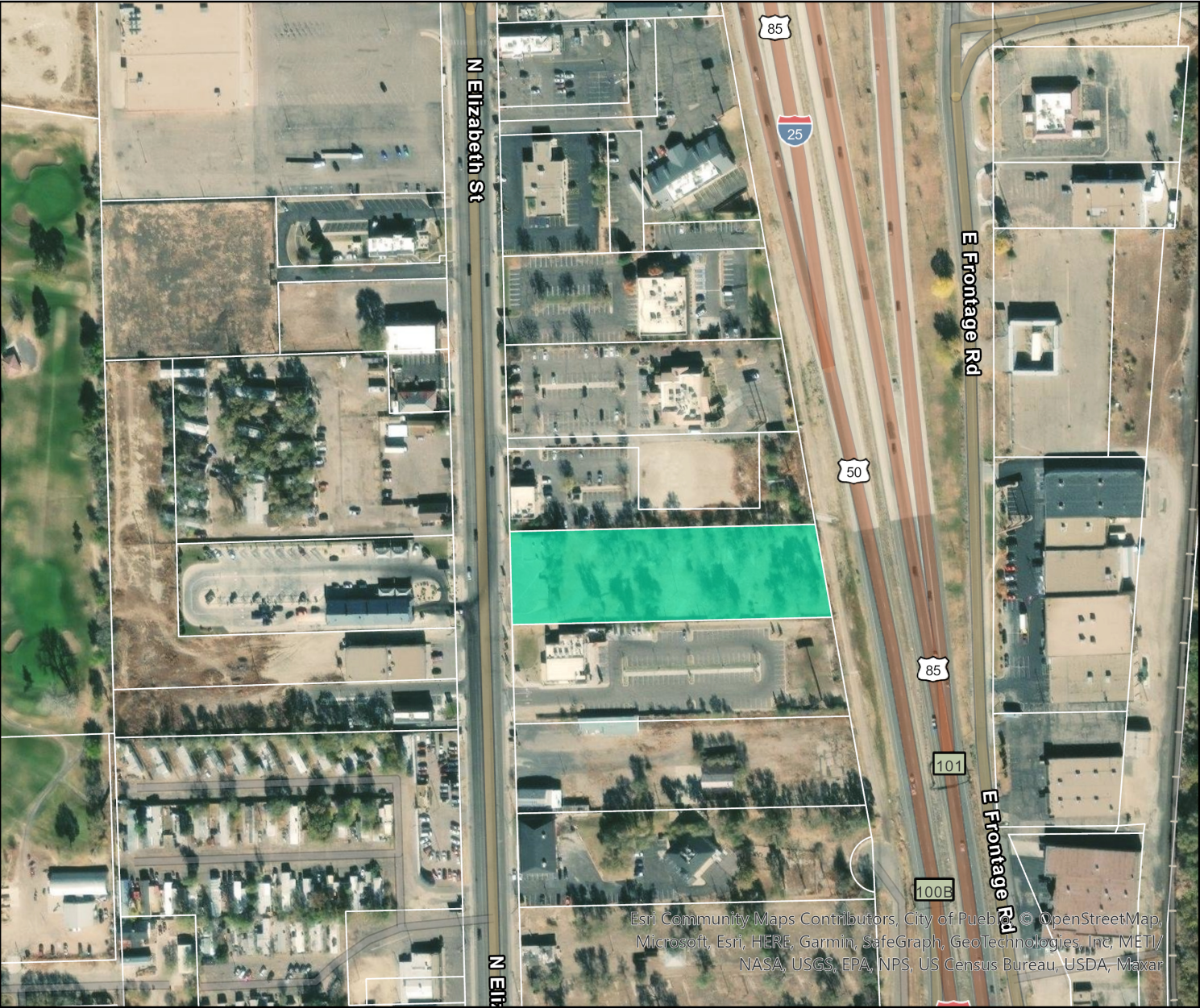
This Conditions Survey finds that the proposed Hotel Urban Renewal Plan area can be declared a "blighted area" as defined by Colorado's Urban Renewal Law and therefore qualifies for urban renewal treatment.



Appendix

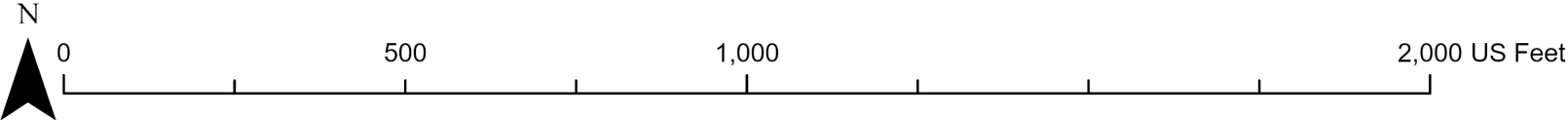
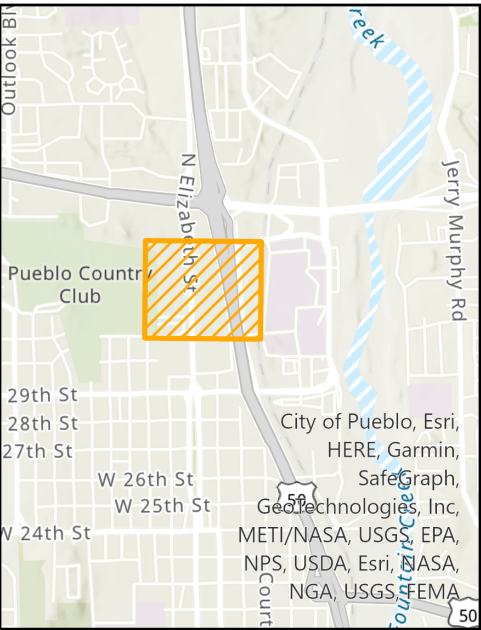
Conditions Survey Maps

Conditions Survey Area



Legend

- Pueblo County Parcels
- Hotel Survey Area

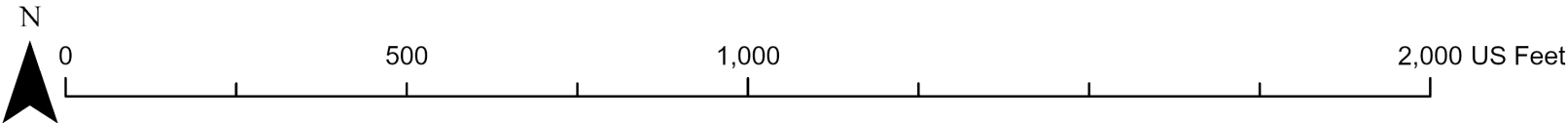
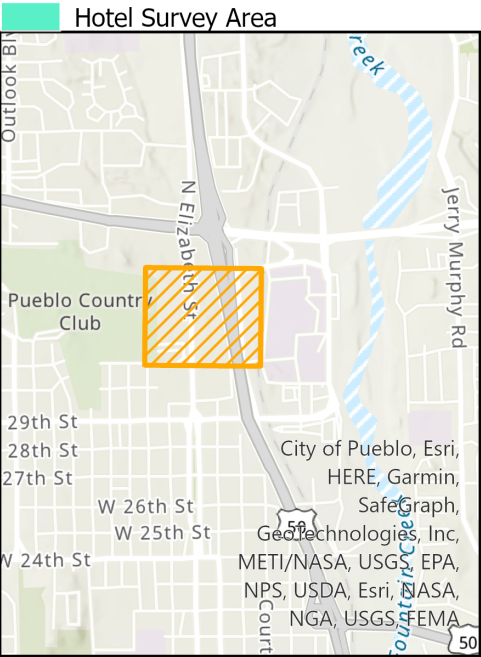


Conditions Survey Area - Blighting Factors Map



Legend

- BF1 Deteriorating Structures
- BF2 Defective Streets
- BF3 Faulty Lots
- BF4 Unsafe/Unsanitary Conditions
- BF5 Site Deterioration
- BF6 Topography and Infrastructure
- BF7 Defective Title
- BF8 Endangered Property
- BF9 Unhealthy Buildings
- BF10 Environmental Contamination
- BF11 Underutilization and Vacancy
- Pueblo County Parcels
- Hotel Survey Area



The North Elizabeth Hotel Urban Renewal
Plan
August 18th, 2023



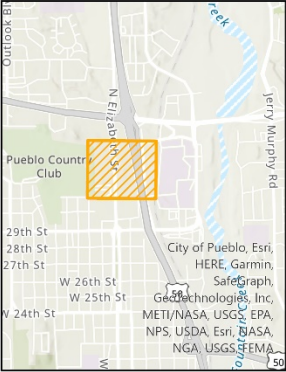
Prepared by:
Pueblo Urban Renewal Authority (PURA)

Hotel Urban Renewal Project



Legend

- Pueblo County Parcels
- Hotel Survey Area



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DEFINITIONS

The terms used in this Urban Renewal Plan shall have the following meanings:

Act means the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, of the Colorado Revised Statutes.

Area or **Urban Renewal Area** means the area of the City included within the boundaries of this Urban Renewal Plan as depicted in Exhibit A and described in Exhibit B.

Authority means the Urban Renewal Authority of Pueblo, Colorado.

City means the City of Pueblo, Colorado.

City Planning means the Department of Planning & Community Development of the City of Pueblo, Colorado.

City Consolidated Plan means the City of Pueblo 2020-2024 Consolidated Plan, approved June 14, 2021, by Ordinance No. 9951.

Comprehensive Plan means the Pueblo Regional Comprehensive Plan adopted in 2022.

County means Pueblo County, Colorado.

Plan or **Urban Renewal Plan** means this urban renewal plan as it may be amended in the future.

Project or **Urban Renewal Project** means all activities and undertakings described in this Plan.

I. Introduction

The purpose of this Plan is to implement those provisions of the Comprehensive Plan and the City Strategic Plan that apply to the Urban Renewal Area. The provisions of this Plan are intended to help provide important services to the Area, eliminate and prevent conditions of blight, attract private investment, utilize underdeveloped land, and leverage public investment and funding mechanisms to promote redevelopment and rehabilitation of the area by private enterprise, and, where necessary, provide necessary public infrastructure to serve the Area.

This Urban Renewal Plan has been proposed for consideration by the City Council of the City pursuant to the provisions of the Act. The administration of the Project and the implementation of the Plan shall be the responsibility of the Authority.

II. Urban Renewal Area Boundary

An urban renewal plan area has been created that includes properties that are within the City of Pueblo's municipal limits. The Area, titled "North Elizabeth Hotel Urban Renewal Plan" includes one (1) parcel along North Elizabeth Street. The property's address parcel number is 513014004, per the Pueblo County Assessor's database. This parcel encompasses ~2.1 acres and is zoned B-4 Regional Commercial. The subject area is characterized by vacant land and buildings, deteriorating structures, environmental contamination, steep topography, deteriorating or missing infrastructure, and unproductive lot configurations. The Area's characteristics make future development challenging and is the reason why PURA is evaluating this site for Urban Renewal treatment.

III. Summary of Statutory Criteria

On August 18th, 2023, a conditions survey report was delivered to the Pueblo Urban Renewal Authority that summarized a blight study of the area described as the North Elizabeth Hotel Urban Renewal Plan. Relevant conditions were researched, documented, photographed, and compared with the blight factors pursuant to the Act. The result of the survey is included in a document entitled "The Hotel Urban Renewal Plan Conditions Survey" (the Conditions Survey) dated August 18th, 2023, consisting of 34 pages, related exhibits, a description of existing conditions, and numerous photographs. The Conditions Survey is incorporated herein in its entirety by this reference.

The Conditions Survey shows that the following factors listed in the Act are present in the Area and that these conditions qualify the Area as a "blighted area" as defined in the Act:

Conditions Survey – Blighting Factors Catalogued	
Blighted Area Factor # (C.R.S. 31-25-103.2 List Label)	Definition
Factor 1 (a)	Slum, Deteriorated, or Deteriorating Structures.
Factor 2 (b)	Predominance of Defective or Inadequate Street Layout
Factor 3 (c)	Faulty Lot Layout in Relation to Size, Adequacy, Accessibility, or Usefulness
Factor 4 (d)	Unsanitary or Unsafe Conditions
Factor 5 (e)	Deterioration of Site or Other Improvements
Factor 6 (f)	Unusual Topography or Inadequate Public Improvements or Utilities
Factor 8 (h)	The Existence of Conditions that Endanger Life or Property by Fire or Other Causes.
Factor 9 (i)	Buildings that are Unsafe or Unhealthy for Persons to Live or Work in Because of Building Code Violations, Dilapidation, Deterioration, Defective Design, Physical Construction, or Faulty or Inadequate Facilities.
Factor 10 (j)	Environmental Contamination of Buildings or Property.
Factor 11 (k.5)	The Existence of Health, Safety, or Welfare Factors Requiring High Levels of Municipal Services or Substantial Physical Underutilization or Vacancy of Sites, Buildings, or Other Improvements

IV. Description of Urban Renewal Project

This Plan will be implemented as part of a comprehensive program to eliminate and prevent blight in the Urban Renewal Area. The Authority and the City, with the cooperation of private enterprise and other public bodies, will undertake a program to eliminate the conditions of blight identified in the Conditions Survey while supporting Pueblo's Regional Comprehensive Plan, the City's Consolidated Plan, and the Pueblo community's remediation and redevelopment goals. Although there are other adopted Plan's both locally and regionally not listed, the Goals and Policies of these plans are assumed to be subsumed under the Comprehensive Plan.

A. Urban Renewal Plan Goals and the Plan's Relationship to Local and Regional Objectives

Goals of the Plan

Goals of the Plan – This Plan has been adopted to achieve the following goals in the Area:

- a) To encourage renewal throughout the Area by attracting additional investment and redevelopment within the Project.
- b) To alleviate blighting conditions within the Area's boundary.
- c) To leverage Tax Increment Financing to assist with the funding of infrastructure and facilities that will help advance the remediation and revitalization goals of the Area.
- d) To incentivize and invest in catalytic development that will remediate blighting conditions throughout the Area.
- e) To encourage redevelopment within the Area that aligns with the City of Pueblo's future land use designations and zoning districts.

- f)** To leverage Tax Increment Financing to help attract new commercial investments and development that aligns with the City's CB-4 Regional Commercial Zone within the Area.
- g)** To improve the streetscapes to promote on-street bike and pedestrian travel while also enhancing lighting, sidewalks, pedestrian safety, parking, signage, and landscaping.
- h)** To improve pedestrian and trail connections to/from the Area along North Elizabeth Street.
- i)** To invest in cultural and community spaces within the Area.

1. Relationship to Comprehensive Plan

The Plan conforms with and is designed to help implement the Visions, Goals, Policies and Guiding Principles detailed in the Comprehensive Plan, revised and adopted September 2022.

In addition to this conformance, the Plan will remediate blighting conditions and attract development that aligns with the following “Key Themes”:

- History and Culture
- Economy
- Growth and Development
- Transportation and Connectivity

a) The Plan will support Goal 4.4 to “Establish Pueblo County as a Tourist Destination”. The Plan will remediate blighting factors on a commercially zoned property. It is also intended to attract tourist-oriented, commercial development, such as a Hotel. This in turn will advance the Comp Plan’s “measure of success” for Guiding Principle 4, which is to increase the number of visitors and tourist spending time and money in Pueblo. Specific policies that align with this Urban Renewal Plan include:

- (1) Policy 4.4.1 Marketing and Branding
 - (2) Policy 4.4.3 Economic Impacts
 - (3) Policy 4.4.4 Major Events and Attractions
- (a) *See Page 52 of Regional Comprehensive Plan*

b) The Plan will support Goal 4.6 to “Enhance the Appearance of Public Spaces, Rights-of-Way, and Community Gateways”. The Plan will remediate conditions that have prevented new development in a highly visible, commercial parcel located near Interstate 25 and Highway 50. The Plan will bring higher and better uses to the site and remove unsightly blight from this area of the city. Specific Policies that Align with this Urban Renewal Plan include:

- (1) Policy 4.6.1 Community Gateways
 - (2) Policy 4.6.4 Context-Sensitive Development
- (a) *See Page 53 of Regional Comprehensive Plan*

c) The Plan will support Goal 6.1 to “Promote a fiscally and environmentally responsible pattern of growth” and Goal 6.2 to “Encourage Infill and Reinvestment in Established Communities and Neighborhoods”. The Plan will support commercial development concentrated along commercial corridors in established neighborhoods. The Plan also leverages funding tools such as tax increment financing. The Plan will facilitate reinvestment in Underutilized Center/Corridors identified within the Comprehensive Plan. Specific Policies that Align with this Urban Renewal Plan include:

- (1) Policy 6.1.1 Coordinated Planning

- (2) Policy 6.1.2 Concentrated Development
 - (3) Policy 6.1.5 Compact Development
 - (4) Policy 6.1.5 Prioritize Investment
 - (5) Policy 6.2.2 Reinvestment in Core Neighborhoods
 - (6) Policy 6.2.4 Redevelopment Areas
- (a) See Pages 65, 66 and 67 of Regional Comprehensive Plan

2. Relationship to City Consolidated Plan

The Plan conforms with and is designed to implement the following Goals detailed in the City's 2020-2024 Consolidated Plan:

Goal 8 – Economic Development: Includes activities such as workforce and economic development initiatives.

The Plan will alleviate conditions arresting sound development within this specific area and help attract private investment to generate higher and better economic uses. The parcel is zoned commercial and exhibits vacant buildings and land. Attracting new commercial development to this site would advance the City's Consolidated Plan's Goal.

Goal 9 – Eliminate Slum or Blighting Influences: Includes the demolition of vacant and dilapidated structures that pose a threat to health and safety, code enforcement, and graffiti removal and façade improvement programs.

The Plan's primary charge is to eliminate blighting factors arresting sound development within the Plan Area. The Conditions Survey identified blighting factors in the area that included vacant buildings, deteriorating structures that are not in code compliance, as well as trash, debris and graffiti. The Plan's Primary purpose is in alignment with the City Consolidated Plan's goal to eliminate slum or blighting influences.

B. Land Use Regulations and Building Requirements

The Plan will provide a comprehensive and unified plan to promote and encourage high quality development and redevelopment of the Urban Renewal Area by cooperative efforts of private enterprise and public bodies. Notwithstanding anything in the Plan to the contrary, the development and use of the property within the Urban Renewal Area described in the Plan including, without limitation, land area, land use, design building requirements, timing or procedures applicable to the property, shall be subject to the Pueblo Municipal Code and secondary regulations and procedures therein adopted by

reference, and other applicable standards and regulations of the City of Pueblo ("City Regulations"). Permitted uses for properties in the Urban Renewal Area shall be those uses allowed in the City of Pueblo Zoning Code and Land Use Code for annexed parcels.

V. PROJECT ACTIVITIES

The following provisions shall apply to the Area. In accordance with the Act, the Authority may undertake these activities directly or, to the extent authorized by applicable law, contract with third parties to do so.

A. Public Improvements

The Authority may undertake certain actions to eliminate blight and make the Urban Renewal Area and its environs more attractive for private investment. The Authority may or may cause to be installed, constructed, and reconstructed public improvements in furtherance of the Plan, which may include, without limitation, streets, sidewalks, alleys, utility infrastructure, utility service facilities, parks, streetscapes, pedestrian corridors, bicycle facilities, and parking facilities. The Authority also may or may cause to be installed, constructed, and reconstructed any other authorized improvements in furtherance of the Plan, which may include, without limitation, façade improvements, public access ways, public gathering areas, and other improvements. Any such construction or improvements shall be performed in accordance with the City's Comprehensive Plan, City specifications and upon obtaining required City permits and compliance with all applicable laws.

B. Redevelopment Agreements

The Authority is authorized to enter into one or more Redevelopment Agreements with developers, landowners, and other entities determined to be necessary or desirable to carry out the purposes of this Plan. Such Redevelopment Agreements may contain such terms and provisions as shall be deemed necessary or appropriate by the Authority for the purpose of undertaking the activities contemplated by this Plan or the Act and may further provide for such undertakings by the Authority, including financial assistance (subject to the limitations contained herein), as may be necessary for the achievement of the objectives of this Plan or as may otherwise be authorized by the Act.

C. Redevelopment and Rehabilitation

Redevelopment and rehabilitation actions within the Urban Renewal Area may include such undertakings and activities as are in accordance with this Plan and the Act, including without limitation: (i) renovation and enhancement of buildings and improvements; (ii) the installation, construction, relocation and reconstruction of public and private improvements; (iii) the carrying out of plans for a program through voluntary action for the repair, alteration, and rehabilitation of buildings or

other improvements in accordance with this Plan; and (iv) the taking of such other actions to eliminate unhealthy, unsanitary or unsafe conditions, eliminate obsolete or other uses detrimental to the public welfare, or otherwise remove or prevent the spread of blight or deterioration. In the absence of any Redevelopment Agreement, development, redevelopment, and rehabilitation in furtherance of the Plan must be undertaken in accordance with, as applicable, the building and zoning regulations and other applicable ordinances of the City.

D. Cooperation Agreements

For the purposes of planning and carrying out this Plan in the Area, the Authority may enter into one or more cooperation agreements with the City, County, or other public bodies. Without limitation, such agreements may include project financing and implementation; design, location, and construction of public improvements; and any other matters required to carry out this Project. It is recognized that cooperation with the City, County, and other public and private bodies may be required to coordinate such issues as the design, construction, maintenance, operation, and timing of public and private improvements within the Area to properly and efficiently carry out the goals and objectives of this Plan.

VI. PROJECT FINANCING

A. Financing Methods

The Authority is authorized to finance the Project and other activities by several methods, including, but not limited to, the following: appropriations from the City; Property Tax Increment paid pursuant to the Cooperation Agreement; interest income; federal loans or grants; or any other available source of revenue allowable under the provisions of the Act or other applicable laws. The Authority anticipates financing the Project Activities under the Plan through a private placement bond issuance for amounts not to exceed \$3,000,000. In addition, subject to the City's approval under §31-25-107 (7), the Authority is authorized to issue other obligations, incur indebtedness, loans, or advances as contemplated by the Act in an amount sufficient to carry out all or any part of the Project. The principal of, interest on, and any premiums due in connection with such bonds, indebtedness, loans or advances may be paid from Property Tax Increment or any other funds, revenues, assets or properties legally available to the Authority.

B. Cooperation Agreements between the City and the Authority

Before the Authority enters a Redevelopment Agreement, the City and the Authority shall enter a Cooperation Agreement.

C. Tax Increment Financing

This Plan contemplates that the primary method of financing the Project and other activities by the Authority shall be the use of Property Tax Increment financing under the tax increment financing provisions of C.R.S. § 31-25-107(9), as amended from time to time, which is by this reference incorporated herein as if set forth in its entirety, subject to City Council approval as set forth herein. In accordance with the Act, the Authority notified the governing bodies of each other public body whose Property Tax Revenues would be allocated under this Plan and negotiated agreements governing the types and limits of tax revenues of each taxing entity to be allocated under the Plan. The Authority has or shall enter into agreements with each taxing entity addressing, without limitation, estimated impacts of the Plan on district services associated solely with the Plan. The allocated shared tax revenues governed by each agreement shall be limited to all or any portion of the taxes levied upon taxable property by the public body within the area covered by the Plan. If there is any conflict between the Act, a Cooperation Agreement, a district agreement, and this Plan, the provisions of the Act shall control. For the Urban Renewal Area, all Property Taxes levied after the effective date of the approval of the Urban Renewal Area upon the taxable property in the Urban Renewal Area each year by or for the benefit of the City shall be divided as follows:

- I. In the case of a Property Tax Increment Area, that portion of the Property Tax Revenues that are produced by the levy at the rate fixed each year by or for each public body upon the valuation for assessment of taxable property in the Urban Renewal Area last certified prior to the effective date of approval of such Area in respect of this Plan or, as to an area later added to the Area, the effective date of the modification of this Plan specifying such Area shall be paid into the funds of each such public body as are all other taxes collected by or for such public body.
- II. Except as the Authority may legally provide otherwise under the Act, that portion of the Property Tax Revenues in excess of the amounts described in paragraph above shall be allocated to, and when collected, paid into a special fund of the Authority, and may be irrevocably pledged by the Authority for the payment of the principal of, premium, if any, and interest on any bonds of, loans or advances to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the Authority to finance or refinance, in whole or in part, the Project. Unless and until the Property Tax Revenue in excess of the amount as provided in

paragraph I(3)(a) above, all of the Property Tax Revenues for the Urban Renewal Area shall be paid into the funds of the respective public bodies.

- III. When such bonds, loans, advances, and indebtedness, if any, including interest thereon and any premiums due in connection therewith, have been paid, with respect to a tax increment but in no event later than twenty-five (25) years following the effective date such Urban Renewal Area is included in this Plan approved by City Council, the total Property Tax Revenues in such Area shall be paid into the funds of the City and the applicable public bodies, respectively. To the extent any tax increment exceeds the required amount of debt service for any such bonds, loans, advances, and indebtedness, including interest thereon and any premiums due in connection therewith, within any given year, such excess shall be refunded to the taxing entities in purportion to their existing mill levy. In the event there is a general reassessment of taxable property valuations in the City, including all or part of the Urban Renewal Area, the portions of valuations for assessment attributable thereto under this Part VI shall be proportionately adjusted in accordance with such reassessment or change.

The Authority and the City may, by Cooperation Agreement or other agreement, provide for the method by which Property Tax Increment shall be allocated and paid to the Authority pursuant to the provisions of this Plan and the Act. Such agreements, and similar agreements between the Authority and other public bodies, may provide additional assistance by the City and cooperation between the Authority and the City in support of the Project as may be more fully set forth in the provisions of such Cooperation Agreement or other agreement.

VII. CHANGES IN APPROVED PLAN

This Plan may be modified pursuant to the provisions of the Act governing such modifications, including but not limited to § 31-25-107, C.R.S. It is explicitly understood all proposed modifications shall be submitted to the City Council for approval. Minor Modifications, those not defined as substantial under the Act, shall be reviewed and approved by the City Council through resolution. Substantial Modifications must be submitted to City Council and approved with the same formalities as this Plan. Substantial Modifications include modifications to the Plan regarding land area, land use, authorization to collect incremental tax revenue, the extent of the use of tax increment financing, the scope or nature of the urban renewal project, the scope or method of financing, design, building requirements, timing, or procedure, or substantial clarification

to parts of this Plan lacking specificity with respect to the urban renewal project or any financing.

VIII. MINOR VARIATIONS

The Authority may in specific cases allow minor variations from the provisions of the Plan if it determines that a literal enforcement of the provisions of the Plan would constitute an unreasonable limitation beyond the intent and purpose of the Plan.

EXHIBIT A
LEGAL DESCRIPTION

LOT 2, PIEDMONT PARK, EXCEPT THAT PORTION CONVEYED TO COLORADO
STATE HIGHWAY DEPARTMENT BY DEED RECORDED JANUARY 22, 1947 IN
BOOK 1031 AT PAGE 2020, COUNTY OF PUEBLO, STATE OF COLORADO

EXHIBIT B

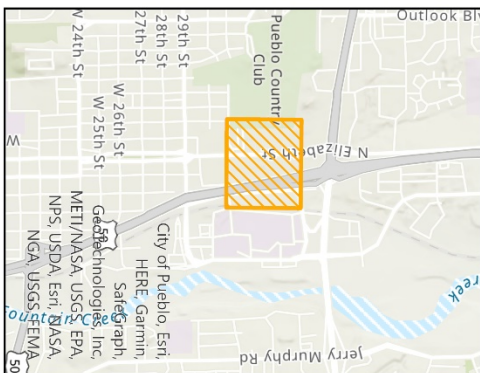
URA PLAN MAP

Hotel Urban Renewal Project



Legend

- Pueblo County Parcels
- Hotel Survey Area





Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Lisa Macchietto, Assistant City Attorney

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

SUMMARY:

This Ordinance authorizes the City to publish notice and sell the liens identified in the included list by public auction.

PREVIOUS COUNCIL ACTION:

On April 17, 2021, Council approved Ordinance No. 9930, which created a Vacant Property Registration program that required properties that were not occupied for at least 30 days in a calendar year to register and pay a \$500 fee. Failure to register the property and pay the fee resulted in the imposition of a \$500 penalty.

On December 12, 2022, Council approved Ordinance No. 10325, as amended, which amended the Pueblo Municipal Code to include new provisions allowing assignment and foreclosure as collection remedies. It also added a new Chapter 9 to Title VII of the Code to establish a procedure for sale and assignment by public auction.

On April 10, 2023, Council approved Ordinance No. 10342 authorizing the City to sell certain liens. Those liens, if not previously paid, were included in an auction that began on May 16, 2023.

BACKGROUND:

Nuisance abatement costs and vacant property registration fees often are unpaid by owners of the affected real property parcels for long periods of time. As a result, liens are recorded with the County Clerk's office to secure the City's interest in collecting the debt. The City may collect that debt by any legal means, including sale and

assignment of the liens or by pursuing a foreclosure action. Additionally, many of the properties affected by the City's municipal real property liens are blighted and harm the quality of life and property values of the neighborhoods in which they are found.

Pursuing sale and assignment of municipal liens that encumber real property will allow the public to bid to become assignees of the liens. Any buyer or assignee of the liens may subsequently collect the debt secured by such lien, including interest and costs of collection, in any manner that was available to the City in their own name, subject to all claims and defenses and subject to the limitations and requirements of Title VII of the Pueblo Municipal Code. This remedy is desirable because it relieves the City from the burden of pursuing the collection activity. Moreover, it is likely to result in an assignee of the lien pursuing ownership of the property by foreclosure and rehabilitating nuisance and blighted properties to productive and positive ownership.

FINANCIAL IMPLICATIONS:

By pursuing sale and assignment as a collection remedy, the City will increase its collection rate resulting in fewer unpaid accounts and more timely collections.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance does not pass it will not be possible for the City to pursue sale and assignment of the identified liens by public auction as a collection remedy.

RECOMMENDATION:

Passage of the Ordinance.

ATTACHMENTS:

1. Assignment of Lien Ordinance
2. Assignment of Lien form

ORDINANCE NO. _____

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

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

SECTION 1.

The following list of municipal real property liens is hereby approved for collection by sale and assignment. The City is authorized to publish notice and pursue collection by public auction in accordance with Title VII, Chapter 9 of the Pueblo Municipal Code.

Encumbered Property Address	Lien Type	Lien Amount Due
503 Bellevue Place, Pueblo, CO 81004	Vacant Property # 2292203 (2022)	\$1,270.29
903 Catalpa Street, Pueblo, CO 81001	Vacant Property # 2292202 (2022)	\$1,270.57
2131 Driftwood Lane, Pueblo, CO 81005	Vacant Property # 2305319 (2022)	\$1,235.29
2403 E. Evans Avenue, Pueblo, CO 81004	Vacant Property # 2285121 (2022)	\$1,286.68
2403 E. Evans Avenue, Pueblo, CO 81004	Vacant Property # 2322235 (2023)	\$1,172.84
124 Idaho Avenue, Pueblo, CO 81004	Vacant Property # 2300749 (2022)	\$1,252.79
1110 E. 1st Street, Pueblo, CO 81001	Vacant Property # 2294173 (2022)	\$1,265.01
722 E. 3rd Street, Pueblo, CO 81001	Vacant Property # 2294176 (2022)	\$1,264.46
722 E. 3rd Street, Pueblo, CO 81001	Vacant Property # 2316402 (2023)	\$1,191.18
724 E. 3rd Street, Pueblo, CO 81001	Vacant Property # 2294175 (2022)	\$1,264.73
724 E. 3rd Street, Pueblo, CO 81001	Vacant Property # 2316422 (2023)	\$1,186.46
724 E. 3rd Street, Pueblo, CO 81001	Weeds # 2299524 (2022)	\$547.51
724 E. 3rd Street, Pueblo, CO 81001	Litter # 2299525 (2022)	\$549.01
1102 E. 5th Street, Pueblo, CO 81001	Vacant Property # 2293195 (2022)	\$1,267.51
1102 E. 5th Street, Pueblo, CO 81001	Vacant Property # 2312646 (2023)	\$1,199.79
1102 E. 5th Street, Pueblo, CO 81001	Board Up # 2277347 (2022)	\$487.41
1102 E. 5th Street, Pueblo, CO 81001	Board Up # 2249299 (2021)	\$489.80
812 E. 6th Street, Pueblo, CO 81001	Vacant Property # 2282184 (2022)	\$1,295.57
812 E. 6th Street, Pueblo, CO 81001	Vacant Property # 2316423 (2023)	\$1,186.46
812 E. 6th Street, Pueblo, CO 81001	Board Up # 2268733 (2022)	\$418.30
812 E. 6th Street, Pueblo, CO 81001	Litter # 2268732 (2022)	\$486.66
812 E. 6th Street, Pueblo, CO 81001	Weeds # 2268731 (2022)	\$485.50
812 E. 6th Street, Pueblo, CO 81001	Board Up # 2238199 (2021)	\$452.43
812 E. 6th Street, Pueblo, CO 81001	Weeds # 2238198 (2021)	\$584.74
812 E. 6th Street, Pueblo, CO 81001	Board Up # 2225346 (2021)	\$533.57
812 E. 6th Street, Pueblo, CO 81001	Litter # 2225345 (2021)	\$451.84
812 E. 6th Street, Pueblo, CO 81001	Weeds # 2225344 (2021)	\$521.83

Encumbered Property Address	Lien Type	Lien Amount Due
1445 E. 8th Street, Pueblo, CO 81001	Vacant Property # 2290765 (2022)	\$1,273.07
1445 E. 8th Street, Pueblo, CO 81001	Vacant Property # 2312639 (2023)	\$1,200.07
2126 E. 7th Street, Pueblo, CO 81001	Vacant Property # 2284461 (2022)	\$1,288.34
2126 E. 7th Street, Pueblo, CO 81001	Vacant Property # 2310606 (2023)	\$1,208.68
2126 E. 7th Street, Pueblo, CO 81001	Weeds # 2277350 (2022)	\$732.83
2126 E. 7th Street, Pueblo, CO 81001	Trash # 2277351 (2022)	\$631.84
2026 E. 9th Street, Pueblo, CO 81001	Vacant Property # 2293200 (2022)	\$1,267.23
2026 E. 9th Street, Pueblo, CO 81001	Weeds # 2308664 (2023)	\$469.51
2026 E. 9th Street, Pueblo, CO 81001	Litter # 2308665 (2023)	\$472.72
429 W. Abriendo Avenue, Pueblo, CO 81004	Vacant Property # 2293203 (2022)	\$1,267.23
429 W. Abriendo Avenue, Pueblo, CO 81004	Vacant Property # 2323843 (2023)	\$1,162.84
1330 E. Abriendo Avenue, Pueblo, CO 81004	Vacant Property # 2294179 (2022)	\$1,263.62
1330 E. Abriendo Avenue, Pueblo, CO 81004	Vacant Property # 2323833 (2023)	\$1,163.12
1727 E. Abriendo Avenue, Pueblo, CO 81004	Vacant Property # 2292193 (2022)	\$1,271.12
1102 W. Arroyo Avenue, Pueblo, CO 81004	Vacant Property # 2294194 (2022)	\$1,263.62
429 E. Beech Street, Pueblo, CO 81001	Vacant Property # 2285107 (2022)	\$1,287.79
1605 E. 10th Street, Pueblo, CO 81001	Vacant Property # 2299517 (2022)	\$1,253.90
1605 E. 10th Street, Pueblo, CO 81001	Vacant Property # 2312643 (2023)	\$1,200.07
1605 E. 10th Street, Pueblo, CO 81001	Board Up # 2295522 (2022)	\$533.26
1605 E. 10th Street, Pueblo, CO 81001	Litter # 2295521 (2022)	\$657.91
1605 E. 10th Street, Pueblo, CO 81001	Weeds # 2295520 (2022)	\$550.86
1605 E. 10th Street, Pueblo, CO 81001	Litter # 2283032 (2022)	\$1,116.21
1605 E. 10th Street, Pueblo, CO 81001	Weeds # 2283031 (2022)	\$561.84
1829 W. 17th Street, Pueblo, CO 81003	Vacant Property # 2302538 (2022)	\$1,243.62
2211 W. 15th Street, Pueblo, CO 81003	Vacant Property # 2294170 (2022)	\$1,265.29
2211 W. 15th Street, Pueblo, CO 81003	Vacant Property # 2323823 (2023)	\$1,165.90
2211 W. 15th Street, Pueblo, CO 81003	Weeds # 2316418 (2023)	\$493.48
2211 W. 15th Street, Pueblo, CO 81003	Litter # 2316419 (2023)	\$418.56
2204 E. 10th Street, Pueblo, CO 81001	Vacant Property # 2292201 (2022)	\$1,270.57
1023 E. 12th Street, Pueblo, CO 81001	Vacant Property # 2293197 (2022)	\$1,267.51
1023 E. 12th Street, Pueblo, CO 81001	Vacant Property # 2312645 (2023)	\$1,199.79
1023 E. 12th Street, Pueblo, CO 81001	Litter # 2310614 (2023)	\$633.31

SECTION 2.

The Mayor of the City is hereby authorized to execute an Assignment of Lien for any such liens sold by auction to effectuate the intended transaction. The Assignment of Lien shall be in substantially the same form and content as the Assignment of Lien form hereto attached and incorporated.

SECTION 3.

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

SECTION 4.

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

Action by City Council:

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

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

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

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

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

President of City Council

ATTEST

City Clerk

ASSIGNMENT OF LIEN ON REAL PROPERTY

This Assignment of Lien (the "Assignment") is made this _____ day of _____, 2024,

BETWEEN: The City of Pueblo, a Colorado Municipal corporation, of 1 City Hall Place, City of Pueblo, County of Pueblo, State of Colorado, herein referred to as "Assignor",

AND: (name of assignee)/a corporation organized and existing under the laws of (state), with its head office located at/of (address), City of (city), County of (county), State of (state), herein referred to as "Assignee".

RECITALS:

In consideration of (amount) Dollars (\$0.00), receipt of which is hereby acknowledged, Assignor does hereby assign to Assignee, without any warranty express or implied and without recourse, the Real Property Lien(s) on the property of (name of the property owner), located at (address) [or by legal description (Lot X)], Pueblo, Colorado, and by Assessor's Parcel No. (number), which has been duly recorded in the office of the Pueblo County Clerk and Recorder's Office, as follows:

Weed/Litter/Vacant Property Lien dated (X), recorded in Volume (number), Page (number), at Reception (number) on date (X), a copy of which is attached hereto; and

Weed/Litter/Vacant Property Lien dated (X), recorded in Volume (number), Page (number), at Reception (number) on date (X), a copy of which is attached hereto.

WHEREAS, the intent of this assignment is to transfer to Assignee full power to collect that certain sum secured by said lien(s), however, any costs incurred by the Assignee in enforcing the assigned lien(s), shall be borne solely by the Assignee.

IN WITNESS WHEREOF, the Assignor has executed this Assignment of Lien on the day and year first above written.

Nicholas Gradisar
Mayor of the City of Pueblo

COUNTY OF PUEBLO)
) ss.
STATE OF COLORADO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2024, by Nicholas Gradisar, as Mayor of the City of Pueblo.

Witness my hand and official seal.

My commission expires: _____
Notary Public



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Heather Graham, Councilor

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2024 GENERAL FUND BUDGET TO MT. CARMEL VETERANS SERVICE CENTER IN THE AMOUNT OF \$1,000 TO SPONSOR THE SALUTE TO HEROES EVENT ON THURSDAY, JANUARY 18, 2024, AT 4:00 PM AT PUEBLO COMMUNITY COLLEGE

SUMMARY:

Attached for consideration is a request for support of Mt. Carmel Veterans Service Center to Heroes Reception in the amount of \$1,000 to sponsor the Salute to Heroes Reception at Pueblo Community College

PREVIOUS COUNCIL ACTION:

Council supported this event in 2023 with \$2,500.

BACKGROUND:

This event is aimed at reaching out to community partner organizations to tell them about how Mt. Carmel is making a difference in supporting our military, veterans, and their families of Pueblo County, with accessible programs, integrated resources, and collaborative partnerships that empower lives and strengthen community.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$1,000 would be paid from the Council Contingencies Account in the 2024 General Fund Budget to Mt. Carmel Veterans Service Center.

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 Heather Graham.

ATTACHMENTS:

1. Salute To Heroes sponsors letter
2. 2024 Contingencies (Council) Salute to Heroes

RESOLUTION NO. 15461

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2024 GENERAL FUND BUDGET TO MT. CARMEL VETERANS SERVICE CENTER IN THE AMOUNT OF \$1,000 TO SPONSOR THE SALUTE TO HEROES EVENT ON THURSDAY, JANUARY 18, 2024, AT 4:00 PM AT PUEBLO COMMUNITY COLLEGE

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$1,000 from the Council Contingencies Account in the 2024 General Fund Budget is authorized to be paid to Mt. Carmel Veterans Service Center to sponsor the Salute to Heroes event on Thursday, January 18, 2024, at 4:00 pm at Pueblo Community College.

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.

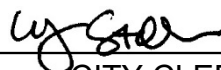
SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: January 8, 2024

BY: Heather Graham
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

MEDAL OF HONOR \$10,000

THE UNITED STATES 'S HIGHEST MILITARY HONOR AWARDED FOR PERSONAL ACTS OF VALOR ABOVE AND BEYOND THE CALL OF DUTY.

As the Medal of Honor Sponsorship, you will have a speaking role at reception, VIP reserved seating for 10 people, recognition as The Medal of Honor Sponsor, opportunity to place materials at reception table, Mt. Carmel will blog your organization reaching over 25K subscribers, newsletters and event signage at Pueblo Community College Ballroom; a full page "thank you Veterans" ad supporting your organization to Veterans; we will place your organizations logo on Mt. Carmel webpage; provide a podcast opportunity on Veterans Voice supporting your organization; acknowledgement by Master of Ceremony and Mt. Carmel leaders during reception; and we will support your organization on our social media platform in the months prior to event.

SILVER STAR \$5,000

THE THIRD-HIGHEST MILITARY COMBAT DECORATION THAT CAN BE AWARDED TO A MEMBER OF THE UNITED STATES ARMED FORCES FOR GALLANTRY IN ACTION.

As the Silver Star sponsor, you will receive VIP reserved seating for 10 people, sponsor of the evening's entertainment, recognition on Mt. Carmel's website, newsletters, opportunity to place materials at the registration tables; event signage in the Fortino Ballroom and food tables.

BRONZE STAR \$2,500

AWARDED TO MEMBERS OF THE UNITED STATES ARMED FORCES FOR EITHER HEROIC ACHIEVEMENT, HEROIC SERVICE, MERITORIOUS ACHIEVEMENT, OR MERITORIOUS SERVICE IN A COMBAT ZONE.

As the Bronze Star sponsor, you will receive VIP reserved seating for 10 people, recognition on Mt. Carmel's website, newsletters, sponsorship of catered Hors D Oeuvres during reception, opportunity to place materials at registration tables, event signage in the Fortino Ballroom and on beverage stations.

PURPLE HEART \$2,000

AWARDED IN THE NAME OF THE PRESIDENT TO THOSE WOUNDED OR KILLED WHILE SERVING ON OR AFTER APRIL 5, 1917, WITH THE U.S. MILITARY.

As the Purple Heart sponsor, you will receive VIP reserved seating for 8 people, recognition on Mt. Carmel's website, newsletters, sponsorship of photographer for reception, opportunity to place materials at registration tables, event signage in the Fortino Ballroom and signage.

MERITORIOUS SERVICE MEDAL \$1,500

AWARDED TO SOMEONE WHO DISTINGUISHED THEMSELVES BY OUTSTANDING MERITORIOUS ACHIEVEMENT OR SERVICE TO THE UNITED STATES.

As the Meritorious Service Medal sponsor, you will receive VIP reserved seating for 6 people, event signage in the Fortino Ballroom, recognition on Mt. Carmel's website, newsletters, opportunity to place materials at registration tables.

TABLE HOSTS

AS A TABLE HOST, YOU WILL RECEIVE A WEBSITE LINK, A MENTION IN THE EVENT PROGRAM AND SOCIAL MEDIA RECOGNITION. THE DIFFERENCE IN THE TIERS IS THE POSITION OF YOUR TABLE THE NIGHT OF THE EVENT.

\$1000.00 - Tier 1 (Includes table of 5 chairs)

\$500.00 - Tier 2 (Includes table of 4 chairs)

\$300.00 - Tier 3 (Includes a Table of 2 chairs)





Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff 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 CHANGING THE STREET NAME OF US HIGHWAY 50 BYPASS TO DR. MARTIN LUTHER KING JR. BYPASS

SUMMARY:

The applicant is requesting to change the name of US Highway 50 Bypass to Dr. Martin Luther King Jr. Bypass

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

In collaboration with the National Association for Advancement of Colored People (NAACP) Pueblo Unit No. 4005, the City of Pueblo is proposing to change the name of US Highway 50 Bypass to Dr. Martin Luther King Jr. Bypass between Interstate 25 and the SH96, SH47 (Cesar Chavez Blvd), and US 50 Bypass interchange (see attached map). The purpose of the street name change is to honor Dr. King's Legacy of combating inequality and promoting civil rights. Earlier this year the Pueblo City Council authorized the Mayor to initiate the process of renaming US Highway 50 Bypass to Dr. Martin Luther King Jr Bypass. The proposed Dr. Martin Luther King Jr. Bypass is a prominent I-25 interchange within the City and is a gateway for motorists traveling into Pueblo from the east. This section of highway, which has over 10,000 vehicle trips per day, is utilized by motorists traveling to the Pueblo Memorial Airport and the Pueblo Memorial Airport Industrial Park. Approximately 18 properties are addressed on US Highway 50 Bypass Frontage Road south of the highway between Norwood Avenue and North Lacrosse Avenue, and one address for the Belmont Post Office is addressed on US Highway 50 Bypass Frontage Road on the north side of the highway. The Dr. Martin Luther King Jr. street name change will not affect the addresses on the north and south side Frontage Roads. Therefore, all 19 properties will maintain their current address. If the street name change is approved by City Council, initial signage will consist of supplemental signage installed on posts along the sides of the highway right-

of-way. The I-25/US 50 Bypass interchange, including the bridges over the railroad and Fountain Creek, are scheduled to be replaced during the next three to four years. Once the new bypass project is complete, permanent signage will be installed at the I-25/US 50 Bypass interchange by CDOT. It is anticipated that the abbreviated name signage will be utilized due to cost. Most of the cost of the abbreviated signage would be included in the highway project costs since those signs would need to be relocated as part of the project. The signage at the cross streets of Hudson Avenue Norwood Avenue, and Troy Avenue will be constructed and installed by the City of Pueblo street department.

FINANCIAL IMPLICATIONS:

The City will incur an estimated cost of \$2,228 to change six existing street signs at the local street intersections to Dr. Martin Luther King Jr. Bypass. In addition, the Colorado Department of Transportation has provided an estimated range of costs to change the highway signs as follows:

Full name signage (Dr. Martin Luther King Jr. Bypass) - \$525,000 to \$600,000
Abbreviated name signage (MLK Bypass) - \$265,000 to \$325,000
Supplemental signage only (similar to the Ronald Reagan and John F. Kennedy I-25 signs) - \$40,000 to \$75,000

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their December 13th, 2023 Regular Meeting, voted 4-3 to recommend approval.

STAKEHOLDER PROCESS:

The Planning Department sent out Notice of the Planning and Zoning Commission Public Hearing to all property owners located within 300 feet of the subject property.

A Public Notice poster was placed on the subject property 15 days prior to the Public Hearing.

ALTERNATIVES:

If City Council does not approve this Ordinance, the current street name would remain.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. SNC-23-02 Attachments

ORDINANCE NO. 10630

AN ORDINANCE CHANGING THE STREET NAME OF US
HIGHWAY 50 BYPASS TO DR. MARTIN LUTHER KING JR.
BYPASS

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

SECTION 1.

The street known as US Highway 50 Bypass is hereby changed to Dr. Martin Luther King Jr. Bypass.

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 December 26, 2023.

Final adoption of Ordinance by City Council on January 8, 2024.

APPROVED: 
PRESIDENT OF CITY COUNCIL

Action by the Mayor:

☒ Approved on January 10, 2024.

☐ Disapproved on _____ based on the following objections:

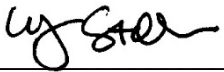

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

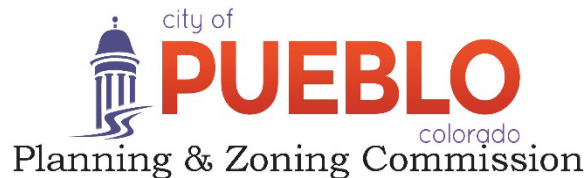


City Clerk

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative



Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

MINUTES OF REGULAR MEETING

City of Pueblo, Colorado

Wednesday, December 13, 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: Alexandra Aznar, Mike Castellucci, Patrick Avalos, Cheryl Spinuzzi, Lisa Bailey, Christopher Pasternak, Sarah Martinez

Commissioners Absent: None

Staff Members Present: Paul Willumstad, Attorney; David Wyatt, Assistant City Attorney, Scott Hobson, Acting Director of Planning and Community Development, Beritt Odom, Principal Planner; Mikaylin Hackley, Planner, Andrew Hayes, Public Works Director, Noah Stamm, Drainage Engineer, Melanie Turner, Traffic Engineer, and Joe Martellaro, Associate Engineer II.

Staff Members Absent: None

Approval of the Agenda: Bailey motioned to move items Z-23-10, S-23-07, S-22-07 and Z-23-12 to the January 10, 2024, meeting and approve the December 13, 2023, agenda as amended, seconded by Spinuzzi.

Motion Passed: 7-0

Public Hearing:

SNC-23-02 Street Name Change: Change the name of US Highway 50 B to Martin Luther King Jr. Bypass, between Interstate 25 and the Interchange of SH96, SH47 and US50B.

Beritt Odom, Principal Planner, provided the staff report.

Hearing: No one testified in favor or opposition of the request

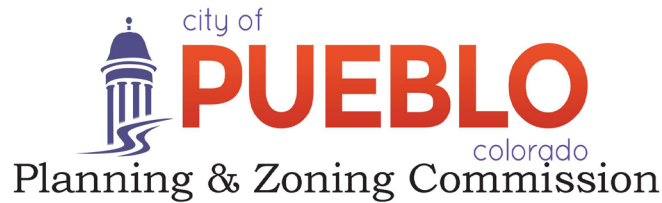
Commission Action: Bailey moved to recommend approval of the Street Name Change with staff recommended conditions 1-3. Seconded by Aznar.

Motion Passed: Four votes in favor and three votes in opposition, Pasternak, Bailey, and Castellucci.

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative



Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

SNC-23-02

TO: City of Pueblo, Planning and Zoning Commission
FROM: Beritt Odom, Principal Planner
THROUGH: Scott Hobson, Acting Director of Planning and Community Development
DATE: December 13, 2023
SUBJECT: Street Name Change, US Hwy 50 B to Dr. Martin Luther King Jr. Bypass
APPLICANT: City of Pueblo
PROPERTY OWNER: City of Pueblo
LOCATION: US Hwy 50 B, between I-25 and the SH96, SH47 (Cesar Chavez Blvd.) and US 50 B Interchange.
EXISTING ZONE: Not Applicable
CONCURRENT REQUESTS: None

Applicable Regulations:

Sec. 12-5-1 through 6 of the Pueblo Municipal Code (PMC) concerning vacations of streets, alleys, etc.

Staff review and findings:

In collaboration with the National Association for Advancement of Colored People (NAACP) Pueblo Unit No. 4005, the City of Pueblo is proposing to change the name of US Highway 50B to Dr. Martin Luther King Jr. Bypass between Interstate 25 and the SH96, SH47 (Cesar Chavez Blvd), and US 50B interchange (see attached map). The purpose of the street name change is to honor Dr. King's Legacy of combating inequality and promoting civil rights.

Earlier this year the Pueblo City Council authorized the Mayor to initiate the process of renaming US Highway 50B for Dr. Martin Luther King Jr. The proposed Dr. Martin Luther King Jr. Bypass. is a prominent I-25 interchange within the City and is a gateway for motorists traveling into Pueblo from the east. This section of highway, which has over 10,000 vehicle trips per day, is utilized by motorists to connect Pueblo Memorial Airport and the Pueblo Memorial Airport Industrial Park.

Approximately 19 properties are addressed on US Highway 50B Frontage Roads, which run south of the Belmont Post Office and between Norwood Ave. and N. Lacrosse Ave. The Dr. Martin Luther King Jr. Street Name Change will not affect the name of the two sections of US Highway 50B Frontage Roads. Therefore, all 19 properties will maintain their current address.

The City will incur an estimated cost of \$2,228.00 to change six existing street signs at the local street intersections to Dr Martin Luther King Jr Bypass. In addition, the Colorado Department of Transportation has provided an estimated range of costs to change the highway signs as follows:

Full name signage (Dr. Martin Luther King Jr. Bypass) - \$525,000 to \$600,000

Abbreviated name signage (MLK Bypass) - \$265,000 to \$325,000

Supplemental signage only (similar to the Ronald Reagan and John F. Kennedy I-25 signs) - \$40,000 to \$75,000

If the street name change is approved by City Council, initial signage will consist of supplemental signage, since the I-25/US 50 Bypass interchange, including the bridges over the railroad and Fountain Creek, is scheduled to be replaced during the next three to four years. Once the bypass is complete, permanent signage will be installed by CDOT. It is anticipated that the abbreviated name signage will be utilized, due to cost. The majority of the cost of the abbreviated signage would be included in the highway project costs since those signs would need to be relocated as part of the highway project.

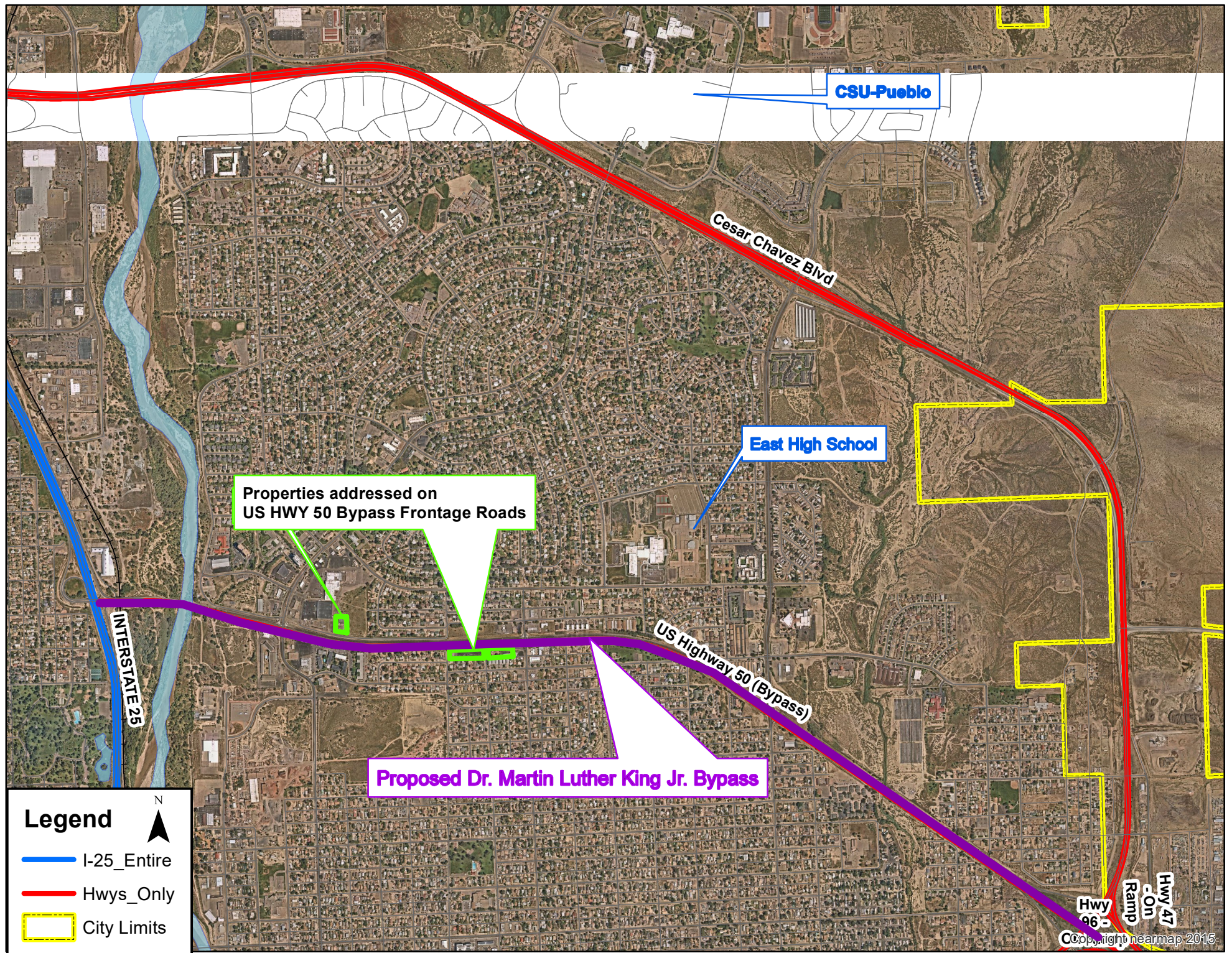
Recommended Action:

If the Planning and Zoning Commission finds the proposed Street Name Change is appropriate, Staff recommends that a recommendation to change the street name be forwarded to City Council, with the following conditions:

1. The 19 properties addressed on the US Highway 50B Bypass between N. Lacrosse Ave. and Norwood Ave. shall not be required to change their address. This includes all address points between 1300 to 1930 East US Highway 50 Bypass.
2. The Belmont Post Office, addressed 1025 East US Highway 50 Bypass, located on the north US Highway 50 Bypass Frontage Road, shall not be required to change its address.
3. Signs for the I-25 intersection with Dr. Martin Luther King Jr. Bypass shall initially have Colorado Department of Transportation (CDOT) approved supplemental signage installed. Once the CDOT I-25/US50 project is complete, permanent signage will be installed.

ATTACHMENT:

- A. Aerial Map



**DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT
CITY OF PUEBLO**

**Submitted November 21, 2023
Published November 28, 2023**

NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN:

Take notice that at 3:30 P.M., on the 13th day of December, 2023 in the **City Council Chambers**, 1 City Hall Place, the Planning and Zoning Commission of Pueblo will hold a hearing for the following:

SNC-23-02: Street Name Change, US Highway 50B to Dr. Martin Luther King Jr. Bypass, between Interstate 25 and SH96, SH47 (Cesar Chavez Blvd), and US50B interchange.

A draft of the proposed Street Name Change will be posted on www.pueblo.us/PandZ under "Most Recent Agenda" and on file in the office of the Department of Planning and Community Development and will be available for viewing and printing, typically the Friday prior to the meeting.

Any person may appear before the Planning and Zoning Commission at the time and place stated above to be heard on the proposed amendments. Individuals who require special arrangements to participate are encouraged to contact the Planning Department at least 72 hours in advance.

After the public hearing and recommendation by the Planning and Zoning Commission, the ordinance adopting the proposed Street Name Change will be considered by the City Council at a public hearing. Notice of the public hearing before the City Council will be published in the Pueblo Chieftain at least ten (10) days prior to the hearing. Any interested person may appear and be heard at such public hearing and may call the Department of Planning and Community Development for the time and date of such public hearing.


Scott Hobson
Administrative Official
(719) 553-2244

November 28, 2023

Dear property owner and or occupant,

In collaboration with the National Association for Advancement of Colored People (NAACP) Pueblo Unit No. 4005, the City of Pueblo is proposing to change the name of US Highway 50B to Dr. Martin Luther King Jr. Bypass between Interstate 25 and the SH96, SH47 (Cesar Chavez Blvd), and US 50B interchange (see attached map). The purpose of the street name change is to honor Dr. King's Legacy of combating inequality and promoting civil rights.

Earlier this year the Pueblo City Council authorized the Mayor to initiate the process of renaming US Highway 50B for Dr. Martin Luther King Jr. The proposed Dr. Martin Luther King Jr. Bypass. is a prominent interchange on I-25 within the City and is a gateway into the City for motorists traveling into Pueblo from the east. This section of highway, which has over 10,000 vehicle trips per day, is utilized by motorists to connect to Pueblo Memorial Airport and the Pueblo Memorial Airport Industrial Park.

Your property and/or business is currently addressed on Hwy 50 Bypass. Should the proposed Street Name Change be adopted by City Council, your street address will be changed to reflect the new Dr. Martin Luther King Jr. Bypass.

Mayor, Nick Gradisar, invites you to participate in a meeting to discuss the proposed street name change and offer feedback on the proposal. The meeting will take place on Wednesday, December 6, 2023, 6:00 p.m., at Fire Station #8, 1551 Bonforte Blvd. Following the community meeting the street name change is scheduled for a Public Hearing with the Planning and Zoning Commission on Wednesday, December 13, 2023. Following the hearing, the Commission will make a recommendation regarding the proposed street name change, to the Pueblo City Council for final decision.

Planning and Zoning Commission Public Hearing Information:

Please take notice that the Planning and Zoning Commission will hold a public hearing at 3:30 P.M., on the 13th day of December 2023 in City Council Chambers, 1 City Hall Place on the street name change proposed for US Highway 50B. The City is proposing to change the name of US Highway 50B to Dr. Martin Luther King Jr. Bypass between Interstate 25 and SH96, SH47 (Cesar Chavez Blvd), and US50B interchange to honor the Legacy of Dr. King (case number SNC-23-02).

A draft of the proposed street name change will be posted on the City's Website at Pueblo.us/PandZ under "Most Recent Agenda" and on file in the office of the Department of Planning and Community Development office and will be available for viewing and printing, typically the Friday prior to the meeting.

Any person may appear before the Planning and Zoning Commission at the time and place stated above to be heard on the proposed street name change. Individuals who require special arrangements to participate are encouraged to contact the Planning Department at least 72 hours in advance.

After the public hearing and recommendation by the Planning and Zoning Commission, the ordinance adopting the proposed street name change will be considered by the City Council at a public hearing. Notice of the public hearing before the City Council will be published in the Pueblo Chieftain at least ten (10) days prior to the hearing. Any interested person may appear and be heard at such public hearing and may call the Department of Planning and Community Development for the time and date of such public hearing.

Please contact me if you have any additional questions.

Sincerely,

A handwritten signature in black ink that reads "Scott Hobson". The signature is written in a cursive, flowing style.

Scott Hobson, Acting Director/Land Use Administrator

Planning and Community Development Planning and Community Development
211 East D Street
Pueblo, CO 81003
(719) 553-2259 Main

CASE NUMBER SNC-22-02

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 US HWY 50B to Dr. Martin Luther King Jr. Bypass, between Interstate 25 and SH96, SH47 (Cesar Chavez Blvd), and US50B interchange.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.

November 28, 2023

(Date)

PUEBLO PLANNING & ZONING COMMISSION

By Cindy Capilla

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 Napoli Way to Medici Way to be published in a newspaper*, as required by the City Charter at least 15 days before the date set for the hearing (17-6-6.1). Notice shall be published once in the newspaper.

November 28, 2023

(Date)

PUEBLO PLANNING & ZONING COMMISSION

By Cindy Capilla

RESIDENT/OCCUPANT
1516 E US HWY 50
PUEBLO CO
81001

RESIDENT/OCCUPANT
711 E US HWY 50 BYPASS
PUEBLO CO
81001

Post Office
1025 E US HWY 50 BYPASS
PUEBLO CO
81001

GONZALEZ AUTO REPAIR
1300 E US HWY 50 BYPASS
PUEBLO CO
81001

Get It and Go
1304 E US HWY 50 BYPASS
PUEBLO CO
81001

Victory Chapel Ministries
1316 E US HWY 50 BYPASS
PUEBLO CO
81001

De Sion Gloria
1318 E US HWY 50 BYPASS STE A
PUEBLO CO
81001

CROSS LAW FIRM
1318 E US HWY 50 BYPASS
PUEBLO CO
81001

STEEL CITY TATTOO
1322 E US HWY 50 BYPASS
PUEBLO CO
81001

Tada Hair Salon
1326 E US HWY 50 BYPASS
PUEBLO CO
81001

MONTANO, MARTHA
1330 E US HWY 50 BYPASS
PUEBLO CO
81001

Aguilar's Family Hairstyling
1332 E US HWY 50 BYPASS
PUEBLO CO
81001

Get It N Go
1334 E US HWY 50 BYPASS
PUEBLO CO
81001

Nate's Fade Zone
1336 E US HWY 50 BYPASS
PUEBLO CO
81001

Colorado Gourmet Food company
1338 E US HWY 50 BYPASS
PUEBLO CO
81001

Pueblo Small Animal Clinic, Inc
1400 E US HWY 50 BYPASS
PUEBLO CO
81001

SNIP O SHEARS
1414 E US HWY 50 BYPASS
PUEBLO CO
81001

COMIC BOOKS
1418 E US HWY 50 BYPASS
PUEBLO CO
81001

State Farm Insurance
1422 E US HWY 50 BYPASS
PUEBLO CO
81001

American Staffing & Personel Svc
1426 E US HWY 50 BYPASS
PUEBLO CO
81001

SUMTHIN 4 EVERY1
1430 E US HWY 50 BYPASS
PUEBLO CO
81001

MUELLER ROGER E/MUELLER SUE
ANN
1509 E 19TH ST
PUEBLO CO
81001

50 BY PROPERTY LLC
137 S ROGERS WAY
GOLDEN CO
80401

YALOTZ WILLIAM M
856 S AVENIDA DEL ORO W
PUEBLO WEST CO
81007

LORENSEN-SMITH PARTNERSHIP
1400 E US HIGHWAY 50 BYP
PUEBLO CO
81001

USPS C/O REGIONAL COUNSEL US
POSTAL,
SAN BRUNO CA
94099

PUEBLO COMMERCIAL PROPERTIES LLC
136 S ROGERS WAY
GOLDEN CO 80401



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE ESTABLISHING PROJECT ED2305, THE POPE BLOCK BUILDING GENERATOR ROOF MEMBRANE REPLACEMENT PROJECT, TRANSFERRING \$30,000 FROM 41300000-56901, PROJECTS TO BE DETERMINED TO ED2305, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$30,000, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance creates account Project ED2305 for the Pope Block Building Generator Roof Membrane Replacement Project, transfers funds in the amount of \$30,000.00 from 41300000-56901, Projects to be Determined to ED2305 Pope Block Building Generator Roof Membrane Replacement Project, and budgets and appropriates funds totaling \$30,000.00 for the Project.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

In anticipation of a project to replace the roof membrane at the Pope Block building generator room, a project needs to be established and funds need to be transferred to the account.

FINANCIAL IMPLICATIONS:

The funds in the amount of \$30,000.00 are being transferred from 41300000-56901, Projects to be Determined to ED2305.

Funds in the amount of \$30,000.00 shall be budgeted and appropriated.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Currently, there are no alternatives for completing the improvements without the funding.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10631

AN ORDINANCE ESTABLISHING PROJECT ED2305, THE POPE BLOCK BUILDING GENERATOR ROOF MEMBRANE REPLACEMENT PROJECT, TRANSFERRING \$30,000 FROM 41300000-56901, PROJECTS TO BE DETERMINED TO ED2305, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$30,000, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

SECTION 1.

Project ED2305, Pope Block Building Generator Roof Membrane Replacement Project, is hereby established.

SECTION 2.

Funds in the amount of \$30,000.00 are hereby transferred from account 41300000-56901 into account Project ED2305, Pope Block Building Generator Roof Membrane Replacement Project, and budgeted and appropriated for project ED2305.

SECTION 3.

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

SECTION 4.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 26, 2023.

Final adoption of Ordinance by City Council on January 8, 2024.

APPROVED: 
PRESIDENT OF CITY COUNCIL

Action by the Mayor:

☒ Approved on January 10, 2024.

☐ 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: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE ESTABLISHING PROJECT ED2307, THE POPE BLOCK BUILDING GENERATOR FENCING PROJECT, TRANSFERRING \$25,000 FROM 41300000-56901, PROJECTS TO BE DETERMINED TO ED2307, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$25,000, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance creates account Project ED2307 for the Pope Block Building Generator Fencing Project, transfers funds in the amount of \$25,000.00 from 41300000-56901, Projects to be Determined to ED2307 Pope Block Building Generator Fencing Project, and budgets and appropriates funds totaling \$25,000.00 for the Project.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

In anticipation of a project to replace the fencing around the generator at the Pope Block building, a project needs to be established and funds need to be transferred to the account.

FINANCIAL IMPLICATIONS:

The funds in the amount of \$25,000.00 are being transferred from 41300000-56901, Projects to be Determined to ED2307.

Funds in the amount of \$25,000.00 shall be budgeted and appropriated.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Currently, there are no alternatives for completing the improvements without the funding.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10632

AN ORDINANCE ESTABLISHING PROJECT ED2307, THE POPE BLOCK BUILDING GENERATOR FENCING PROJECT, TRANSFERRING \$25,000 FROM 41300000-56901, PROJECTS TO BE DETERMINED TO ED2307, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$25,000, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

SECTION 1.

Project ED2307, Pope Block Building Generator Fencing Project, is hereby established.

SECTION 2.

Funds in the amount of \$25,000.00 are hereby transferred from account 41300000-56901 into account Project ED2307, Pope Block Building Generator Fencing Project, and budgeted and appropriated for project ED2307.

SECTION 3.

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

SECTION 4.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 26, 2023.

Final adoption of Ordinance by City Council on January 8, 2024.

APPROVED: 
PRESIDENT OF CITY COUNCIL

Action by the Mayor:

☒ Approved on January 10, 2024.

☐ 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: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE ESTABLISHING PROJECT ED2306, THE POPE BLOCK BUILDING ELEVATOR SHAFT REPAIR PROJECT, TRANSFERRING \$10,000 FROM 41300000-56901, PROJECTS TO BE DETERMINED TO ED2306, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$10,000, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance creates account Project ED2306 for the Pope Block Building Elevator Shaft Repair Project, transfers funds in the amount of \$10,000.00 from 41300000-56901, Projects to be Determined to ED2306 Pope Block Building Elevator Shaft Repair Project, and budgets and appropriates funds totaling \$10,000.00 for the Project.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

In anticipation of a project to repair the elevator shaft at the Pope Block building, a project needs to be established and funds need to be transferred to the account.

FINANCIAL IMPLICATIONS:

The funds in the amount of \$10,000.00 are being transferred from 51300000-56901, Projects to be Determined to ED2306.

Funds in the amount of \$10,000.00 shall be budgeted and appropriated.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Currently, there are no alternatives for completing the improvements without the funding.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10633

AN ORDINANCE ESTABLISHING PROJECT ED2306, THE POPE BLOCK BUILDING ELEVATOR SHAFT REPAIR PROJECT, TRANSFERRING \$10,000 FROM 41300000-56901, PROJECTS TO BE DETERMINED TO ED2306, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$10,000, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

SECTION 1.

Project ED2306, Pope Block Building Elevator Shaft Repair Project, is hereby established.

SECTION 2.

Funds in the amount of \$10,000.00 are hereby transferred from account 41300000-56901 into account Project ED2306, Pope Block Building Elevator Shaft Repair Project, and budgeted and appropriated for project ED2306.

SECTION 3.

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

SECTION 4.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 26, 2023.

Final adoption of Ordinance by City Council on January 8, 2024.

APPROVED: 
PRESIDENT OF CITY COUNCIL

Action by the Mayor:

☒ Approved on January 10, 2024.

☐ 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: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Laura Solano, Chief of Staff

SUBJECT: AN ORDINANCE APPROVING AND ACCEPTING A SUBGRANT IN THE AMOUNT OF \$20,000.00 FROM THE PUEBLO COUNTY DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT ON BEHALF OF THE PUEBLO FOOD PROJECT, BUDGETING AND APPROPRIATING \$20,000.00 TO PROJECT NO. 2333, AND AUTHORIZING THE MAYOR'S SIGNATURE OF THE GRANT AGREEMENT

SUMMARY:

Attached is an Ordinance approving and accepting a subgrant in the amount of \$20,000.00 from the Pueblo County Department of Public Health and Environment awarded to the Pueblo Food Project budgeting and appropriating \$20,000.00 to Project No. 2333 and authorizing the Mayor's signature of the grant agreement.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

The Pueblo County Department of Public Health and Environment received funding to begin work on decreasing the consumption of sugary/sweet beverages in Pueblo County. In August and September 2022, the Pueblo Food Project assisted in grant writing and planning. The grant was awarded to PDPHE in July 2023. Pueblo Food Project's agreed upon work on the grant will begin January 2024.

FINANCIAL IMPLICATIONS:

This \$20,000.00 will be received for the stated purpose without any in-kind match on the part of the City.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Not accept the donation and return the funds.

RECOMMENDATION:

Approval of Ordinance.

ATTACHMENTS:

1. 12-26-23 PFP PDPHE Grant Health Beverages for All Agreement

ORDINANCE NO. 10634

AN ORDINANCE APPROVING AND ACCEPTING A SUBGRANT IN THE AMOUNT OF \$20,000.00 FROM THE PUEBLO COUNTY DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT ON BEHALF OF THE PUEBLO FOOD PROJECT, BUDGETING AND APPROPRIATING \$20,000.00 TO PROJECT NO. 2333, AND AUTHORIZING THE MAYOR'S SIGNATURE OF THE GRANT AGREEMENT

WHEREAS, a grant award was given by The Pueblo County Department of Public Health and Environment in the amount of \$20,000.00, intended to partner with the Pueblo Food Project in the intended grant work; NOW; THEREFORE,;

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

SECTION 1.

City Council authorizes the acceptance of \$20,000.00 from The Pueblo County Department of Public Health and Environment to the City of Pueblo - Pueblo Food Project. The Grant Agreement Local Food Purchasing Assistance ("Agreement") between the Pueblo Food Project and Colorado Department of Human Services, a copy of which is attached hereto, is hereby approved, and the Mayor's signature thereon is ratified.

SECTION 2.

Project No. CI2333 is hereby created. The funds in the amount of \$20,000.00 shall be accepted pursuant to the Agreement and are hereby budgeted and appropriated into Project No. CI2333.

SECTION 3.

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

SECTION 4.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 26, 2023.

Final adoption of Ordinance by City Council on January 8, 2024.

APPROVED: 
PRESIDENT OF CITY COUNCIL

Action by the Mayor:

☒ Approved on January 10, 2024.

☐ Disapproved on _____ based on the following objections:


Mayor

Action by City Council After Disapproval by the Mayor:

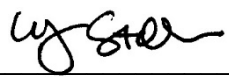
☐ Council did not act to override the Mayor's veto.

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

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

President of City Council

ATTEST



City Clerk

AGREEMENT FOR HEALTHY BEVERAGES FOR ALL

THIS AGREEMENT entered into as of January 1, 2024, by and between the Pueblo Department of Public Health and Environment (“Department”) and City of Pueblo- Pueblo Food Project (“Contractor”).

WHEREAS, Department desires to engage and Contractor desires to perform the work and services described in Exhibit A (“Services”) attached hereto; and

WHEREAS, Contractor represents that Contractor is qualified by training, education, and experience to perform said Services.

NOW, THEREFORE, in consideration of the foregoing and mutual covenants contained herein Department and Contractor agree as follows:

1. Contractor shall perform and provide all services for *Healthy Beverages for All* as more specifically described in Exhibit A, which is incorporated herein by this reference. Contractor shall provide said Services as per the established completion schedule for the Services and agreed upon work hours. Contractor shall be under the general supervision of Department as to the results and end product of the Services and shall report to the Director of the Department or his/her designee.

2. As consideration for Services performed herein by Contractor, Department will pay the sum of \$20,000 as described in Exhibit A, which is incorporated herein by this reference. Contractor shall submit an invoice quarterly by the 5th of the month submitted for a total not exceed \$20,000. The approved invoice will be paid to the Contractor by the end of the month.

3. **CONTRACTOR:**

The parties understand and agree that Contractor shall, at all times during the term of this Agreement, be deemed an independent contractor and not an employee of the Department, and shall be responsible for, and obligated to pay, all withholding taxes, social security, unemployment, worker's compensation, and/or other taxes and shall indemnify and hold the Department harmless from and against any and all claims for the same period. Contractor acknowledges and agrees that all its personnel are its employees only, and not employees or agents of the Department for any purpose whatsoever, including for purposes of Worker's Compensation.

4. **TERM/TERMINATION:**

A. Unless sooner terminated as provided herein, the term of this Agreement shall commence September 1, 2023, and shall remain in effect until June 30, 2024. Contractor understands and agrees that this Agreement is expressly made subject to annual appropriation of funds by Department for its continuance including the receipt of funds from the State of Colorado and upon failure of Department to appropriate funds for this Agreement said Agreement shall be terminated without liability to Department.

B. This Agreement may be terminated by either party upon thirty (30) days prior written notice. In addition, Department may terminate this Agreement immediately if (i) Department funding for the Services is terminated, (ii) Contractor fails to timely and satisfactorily perform the Services, (iii) or Contractor is in default under any provision of this Agreement.



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5. INSURANCE:

Contractor shall, at its sole cost and expense, procure and maintain during the entire period of its performance hereunder the following coverage and limits of insurance with companies acceptable to Department:

- A. Worker's Compensation (including occupational disease), and Employer's Liability insurance in accordance with any applicable worker's compensation laws on all owners, employees, servants and/or agents connected with or engaged in the performance of Contractor's obligations hereunder.
- B. Commercial General Liability insurance with personal injury and property damage limits at a combined single limit of not less than \$1,000,000.00 per occurrence and \$1,000,000.00 general aggregate. Said policy(ies) shall include Completed Operations and/or Product Liability coverage and Contractual Liability coverage for any liability assumed under the terms of this Agreement and shall name the Department as Additional Insured.
- C. Automobile Liability insurance on all automobiles and vehicles, whether owned or hired, with personal injury and property damage limits at a combined single limit of not less than \$1,000,000.00 per accident.

Coverages enumerated in this insurance provision represent only the minimum insurance required by Department, and Contractor should rely on its expertise to obtain any additional insurance coverage needed for the Department and Contractor in its performance hereunder. The Contractor's liability insurance must establish Pueblo City-County Health Department as "additional insured". If requested by Department, Contractor shall provide Department with certificates of insurance indicating Contractor and its subcontractors are covered by insurance as set forth above and a copy of the "Additional Insured" endorsement, establishing such additional insured status. Where requested and furnished, such certificates must be approved by Department prior to the commencement of any work hereunder. Each such certificate shall provide that Department shall receive thirty (30) days prior written notice of cancellation of such insurance coverage.

6. GOVERNMENT IMMUNITY/COMPLIANCE WITH LAW:

A. During the term of this Agreement, Contractor agrees to comply with all applicable federal, state, and local laws, ordinances, rules and/or regulation. It shall be Contractor's obligation to pay all Colorado real and personal property taxes in a timely fashion. The failure to pay such taxes in a timely fashion shall be considered an automatic breach of this Agreement by Contractor, and Department shall have the sole and exclusive option to immediately terminate this Agreement, without liability to Department, should it so desire.

B. The Contractor and Department do 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.

7. Prohibitions on Public Contracts for Services (Including Construction Contracts) regarding Employment of Illegal Aliens:

If Contractor has any employees or subcontractors, Contractor shall comply with the provisions of C.R.S. § 8-17.5-101, *et seq.*, and this Contract. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract; or enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien to perform work under this contract.

By execution of this Contract, Contractor certifies that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and that the Contractor will participate in either the Federal E-Verify Program or the Colorado Department of Labor & Employment's "Department Program" as identified in C.R.S. §§ 8-17.5-

101(3.7) and (3.3), in order to confirm the eligibility of all employees who are newly hired for employment to perform work under this Contract.

A. Contractor shall not:

- (i) Knowingly employ or contract with an illegal alien to perform work under this Contract; or
- (ii) Enter into a contract with a subcontractor that fails to certify to Contractor/Consultant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract.

B. Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform Work under this Contract through participation in either the E-Verify Program or Department Program.

C. Contractor shall not use either the E-Verify Program or Department Program to undertake pre-employment screening of job applicants while this Contract is in effect.

D. If Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, Contractor shall:

- (i) Notify the subcontractor and the Department within three (3) days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- (ii) Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to sub-paragraph (i) above, the subcontractor does not stop employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three days, the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

E. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).

F. If Contractor violates this provision of this Contract, the Department may terminate this contract for breach of contract and the Contractor shall be liable for actual and consequential damages to the Department as required by law.

G. The Department will notify the Office of the Secretary of State if Contractor violates this provision of the Contract and the Department terminates the Contract for such breach.

6. Contractor agrees to abide by all applicable laws, rules and regulations, and administrative rulings of the United States, the State of Colorado, Pueblo County, and any other political subdivision with jurisdiction applicable to the agreement and to hold the Department harmless from and against all claims of any kind associated with the failure of the Contractor to comply. Additionally, Contractor agrees not to refuse to hire, discharge, promote or demote, or discriminate against any person otherwise qualified, in any matter of compensation or benefits, performance or service or otherwise, solely because of race, creed, sex, color, national origin or ancestry, age, marital status, physical handicap or religious belief.

7. Contractor assures it will establish safeguards to prohibit its employees, agents, or servants from using the agreement for any purpose, which causes or lends itself to create an appearance of impropriety. Such employees, agenda, or servants shall not seek any personal benefits or private gain for themselves, their families, or others.

8. This Agreement constitutes the entire agreement between the parties with respect to service of the aforementioned equipment and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties. No variation or modification of this Agreement, and no waiver of any of the Agreement's provisions or conditions, shall be binding unless made in writing and signed by duly authorized representatives of the parties hereto. This Agreement shall be governed by, and construed according to, the laws of the State of Colorado.

9. This Agreement shall be binding on, and inure to the benefit of, the parties hereto and their respective heirs, 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.

10. The headings and titles of this Agreement are inserted for convenience only and shall not affect the interpretation or construction of any of its provisions.

11. Except as set forth elsewhere in this Agreement, all notices to be given under this Agreement shall be made in writing and shall be sufficient if delivered personally or mailed by First Class United States mail, postage prepaid, to the proper party at the following addresses:

City of Pueblo- Pueblo Food Project
1 City Hall Place
Pueblo, CO 81003

Pueblo Department of Public Health and Environment
Operations and Health Promotion Division-Davis
101 W. 9th Street
Pueblo, CO 81003

IN WITNESS WHEREOF, the parties have executed this Agreement in Pueblo, Colorado, the day and year written.

City of Pueblo- Pueblo Food Project

Nicholas A. Gradisar, Mayor

Date

Pueblo Department of Public Health and Environment

Randy, Evetts, MPA
Public Health Director

Date

SCOPE OF SERVICES

Exhibit A

This agreement between the Contractor and the Department is intended to apply to those services of the Contractor rendered for the support of the following:

Pueblo Food Project will work with PDPHE and Healthy Beverage Choices for All (HBC4A) to support the Cancer Cardiovascular and Pulmonary Disease (CCPD) grant focused on addressing health inequities and decreasing consumption of unhealthy beverages through education, policy, practice, and environment changes.

This will be accomplished by engaging disproportionately impacted communities and youth alongside health systems, community organizations, and businesses to support the adoption of local sugary drink reduction strategies in the City of Pueblo. The strategies will ensure Pueblo County is a leader in health promotion and racial equity.

Pueblo Food Project will 1) participate in meetings with HBC4A; 2) convening community and/or youth leaders to build community awareness of the harms of sugary drinks and the impact of local sugary drink reduction strategies; 3) model healthy beverage strategies within their own organization; and finally 4) mobilize and engage community residents to support a sugary drink reduction policy in Pueblo County.

Activities and Deliverables:

Participate in meetings with HBC4A

- ☐ Attend at least 5 HBC4A Steering Committee meetings
 - Support community input and recommendations on HBC4A activities
 - Complete bi-annual steering committee effectiveness surveys

Educate community residents on the harms of sugary drinks and the impact of local reduction strategies

- ☐ Outreach to community residents and aligned community organizations to gauge readiness to support sugary drink reduction efforts.
- ☐ Co-coordinate monthly local community coalition meetings with HBC4A LPHA representative
 - Co-convene community residents and partners interested in this work
 - Inform development of educational presentations, talking points, and other community tools
 - Complete bi-annual local coalition effectiveness surveys
- ☐ Co-develop a policy assessment tool
 - Provide input on tool to HBC4A to ensure it resonates with community
 - Support dissemination of tool with local community
- ☐ Co-develop communications tools for educating community members
 - Identify tools (talking points, fact sheets, and commitment cards) to best meet needs of community
 - Inform what is included in tools
- ☐ Disseminate communications tools at community events to build support for policy strategy
 - Identify 15 number of community events to reach and educate community residents
 - Set up an information table
 - Canvass for the support of local sugary drink reduction policy strategy

Model healthy beverage strategies and efforts within own organization

☐ Adopt a healthy meeting and/or non-acceptance of sugary drink industry funding policy

- Learn about model healthy beverage policy guidelines
- Co-develop policy language to utilize within community organization with HBC4A
- Support policy adoption and implementation with support from HBC4A

☐ Update online presence to include educational language supporting sugary drink reduction strategies and/or education on the harms of sugary drinks

- Such as social media posts, newsletter information, and other opportunities to spread information to community network

Mobilize and engage community residents to support a sugary drink reduction strategy in Pueblo County

☐ Educate at least 25 community groups/organizations and businesses

☐ Participate in meetings with stakeholders sharing the importance and impact of policy strategy on community

☐ Participate in at least two communication strategies related to building support the change strategy including: media pieces, radio interviews, quotes to be used in opinion editorials

Approved Budget to cover operating expenses related to the detailed activities: \$20,000

Budget expenses must follow spending guidelines from the Cancer, Cardiovascular and Pulmonary Disease (CCPD) grant program and cannot exceed \$20,000.

Invoices should be on official letterhead, must have an invoice date, an invoice number, include a description of work related to activities outlines in Exhibit A, and the total amount of expenses incurred during that period. Invoices should be emailed quarterly to herschlerd@pueblocounty.us by the 5th of October, January, April and July and will be paid by the end of the month submitted.



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Nicholas Gradisar, Mayor

SUBJECT: AN ORDINANCE APPROVING AND ACCEPTING A SUBGRANT IN THE AMOUNT OF \$12,000 FROM THE COLORADO BLUEPRINT TO END HUNGER FOR THE PUEBLO FOOD PROJECT, AUTHORIZING THE MAYOR TO SIGN THE GRANT AGREEMENT, AND BUDGETING AND APPROPRIATING \$12,000 TO PROJECT NO. CI2332

SUMMARY:

Attached is an Ordinance approving and accepting a grant in the amount of \$12,000.00 from the Colorado Blueprint to End Hunger to provide funds for the Pueblo Food Project to promote Healthy School Meals for All. This Ordinance budgets and appropriates the grant funds to Project No. CI2332 and authorizes the Mayor to sign the Grant Agreement.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

The Pueblo Food Project ("PFP") has been working in partnership with the Colorado Blueprint to End Hunger to strategize the implementation and marketing of the Healthy School Meals for All ("HSMA") initiative. This grant allocates funding to conduct campaign outreach to hard-to-reach populations about the Healthy School Meals for All program. The goal of this program is to encourage community-based organizations to actively promote the Healthy School Meals for All program at the local level within the communities they work with. PFP was notified of this award on November 12, 2023.

FINANCIAL IMPLICATIONS:

There are no matching funds required for this grant. The City of Pueblo will receive \$12,000.00 for the Pueblo Food Project, which will be given in two lump sums in

November 2023 and March 2024. The total grant budget for Project No. CI2332 will be \$12,000.00.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If the proposed Ordinance is not approved, the Pueblo Food Project will not receive the grant funds.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 12-26-23 Healthy School Meals SE2 - Grant Recipient Partner Attachment A Statement of Work - Pueblo Food Project_
2. 12-26-23 Healthy School Meals SE2 - Grant Recipient Partner Contract - Pueblo Food Project .docx (1)

ORDINANCE NO. 10635

AN ORDINANCE APPROVING AND ACCEPTING A SUBGRANT IN THE AMOUNT OF \$12,000 FROM THE COLORADO BLUEPRINT TO END HUNGER FOR THE PUEBLO FOOD PROJECT, AUTHORIZING THE MAYOR TO SIGN THE GRANT AGREEMENT, AND BUDGETING AND APPROPRIATING \$12,000 TO PROJECT NO. CI2332

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

SECTION 1.

The Memorandum of Understanding dated July 1, 2023 ("Agreement") between the City of Pueblo, a Municipal Corporation, by and through the Pueblo Food Project, and One Colorado Education Fund, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute the Agreement on behalf of the City of Pueblo, a Colorado Municipal Corporation, and the City Clerk is authorized to affix the seal of the City thereto and attest the same.

SECTION 3.

Funds in the amount of \$55,000.00 shall be accepted pursuant to the Agreement and budgeted and appropriated to Project No. CI2213.

SECTION 4.

The officers and staff of the City are hereby authorized to perform any and all acts consistent with this Ordinance and the attached Agreement to effectuate 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 December 26, 2023.

Final adoption of Ordinance by City Council on January 8, 2024.

APPROVED: 
PRESIDENT OF CITY COUNCIL

Action by the Mayor:

☒ Approved on January 10, 2024.

☐ 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

Attachment A

Scope of Work

[Pueblo Food Project]

In collaboration with SE2 and Trailhead Institute DBA the Colorado Blueprint to End Hunger

Project Supervisor: Cat Lyons

Start date: November 17, 2023

End date: July 31, 2024

Program Context

The Colorado Blueprint to End Hunger and its media partner SE2 are funding community-based organizations doing on-the-ground work to conduct campaign outreach to hard-to-reach populations about the Healthy School Meals for All program. The goal of this mini-grant reward program is to encourage community-based organizations to actively promote the Healthy School Meals for All program at the local level within the communities they work with.

Program Requirements – Tier 2 (\$12,000)

- Submit a plan outlining your plan to promote the Healthy School Meals for All program. It should include the audience you want to reach and an outline of how funds will be used.
- Conduct at least two outreach activities within the local community (e.g., workshops, community events) to raise awareness about the benefits of Healthy School Meals for All.
- Share regularly social media content on social media platforms -OR- campaign content with the community for at least 3 months.
- Share the impact of your activities! Tell us how many people you talked to at your outreach activities or how many people interacted with your social media content, etc. Tell us what went well and the challenges you faced.
- Collaborate with at least one local school to create a unique piece of content about the Healthy School Meals for All program.
- Create and share at least three pieces of content (e.g., articles, blogs, video, infographics, etc.) to highlight the importance of the program and highlight success stories.

Program Outline

The goals of this proposal include the following:

- Raise Awareness and enthusiasm for expanded school meals to make them the preferred option among families statewide/ Build on broad community support for healthy school meals for all.
- Ensure families fill out income (Benefit) forms, which help school districts increase federal funds.
- Increase overall participation in school meal programs statewide.
- Help school districts recruit food service staff to respond to expanded demand for school meals.
- Increase school and district understanding of local procurement, scratch cooking, and supporting local and culturally relevant foods.

- Improve community knowledge around Healthy School Meals for All through outreach and collaboration with school nutrition programs.
- Educate and support producers in building relationships with schools interested in buying local produce.

Program Overview

The funding provided under this Agreement will enable the **Pueblo Food Project** to promote the Healthy School Meals for All program in your community as a mini-grant recipient.

All materials — including links, files, photo or video content, or other items outlined here— must be delivered to SE2 via email or file transfer by the reporting due date.

If a reporting due date can't be honored, the ambassador must request an extension one week before the reporting due date.

Deliverables	Completion Due Date	Reporting Due Date
<i>Provide a report outlining your efforts, key performance indicators (KPIs), metrics and any content created with Healthy School Meals</i> Share the impact of your activities! Tell us how many people you talked to at your outreach activities or how many people interacted with your social media content, etc. Tell us what went well and the challenges you faced.		7/5/2024

The ambassador agrees to the following deliverables as part of the campaign:

- Contract Dr. Kelly Gehlhoff of Perpetual Harvest LLC for her work in executing the deliverables of this grant, and \$1,000 in volunteer support and economic assistance to the participants of our events
- Host 3 events throughout the timeline of this grant; funds will go towards food, rental space, equipment rentals/purchases, etc.
- Organize a community event demonstrating the benefits of HSMA - Family cooking class with D60 food service staff cooking a school lunch meal
- Purchase supplies for the implementation of this grant: printing expenses, office supplies
- Share regularly social media content on social media platforms -OR- campaign content with the community for a minimum of 3 months
- Create a unique piece of content about HSMA in collaboration with a local school
- Create/share at least 3 unique pieces of content (e.g., articles, blogs, video, infographics, etc.) highlighting the importance and success of HSMA

- Include a plan detailing how you will continue to support the Healthy School Meals for All program beyond the grant period.

Key Program Personnel

List each person who will be working on the program scope of work. All persons working on the program must be United States of America citizens residing in the State of Colorado. The agency reserves the right to verify citizenship using the U.S.A. e-verification program. All personnel and participants must be 18 years of age or have a signed release from parent or guardian of said minor child.

- **List key members of personnel**

Serena Sakkal – serena@pueblofoodproject.org, Dr. Kelly Gehlhoff – kellyphgs@gmail.com

- **Day-to-day contact- Serena Sakkal**

- **Contract contact- Serena Sakkal**

Grant Funding Amount

\$12,000

Grant Funding Schedule

Invoices will be delivered per the schedule below via e-mail.

INSTALLMENT	PAYMENT SENT	PAYMENT
Project initiation Fee (50%)	11/27/2023	\$6,000.00
Project completion fee (50%)	3/30/2024	\$6,000.00

TOTAL PROJECT INVESTMENT: \$12,000

INDEPENDENT PARTNER AGREEMENT

This Agreement ("**Agreement**") is made by and between E-Squared Communications Group, Inc. d/b/a SE2 ("**Agency**") and the City of Pueblo, on behalf of its **Pueblo Food Project** ("**Partner**"), a Colorado municipal corporation, effective as of the date set forth below.

Recitals

Agency is engaged in the business of performing marketing, advertising and other related services for others. Partner is a Colorado municipal corporation that promotes the Healthy School Meals for All program in the State of Colorado. Agency desires to provide Partner with materials and funds (hereafter referred to as "Grant") so that Partner can promote the Healthy School Meals for All program.

Terms & Conditions

1. Services. Partner shall provide media, materials, programs, or other resources to promote the Healthy School Meals for All program. The ("**Services**") for this Grant will be set forth in Attachment A, the "Statement of Work" ("**SOW**"), attached hereto and incorporated herein by reference. The scope of the Services, fees, terms of payment and deadlines for completion of the Services shall be set forth in Attachment A prior to commencement of the Services. The terms of this Agreement shall govern and supersede any conflicting terms of any Attachment or SOW.
2. Grant Award and Funding. Agency shall pay the amount(s) set forth in Attachment A and per the schedule as set forth in Attachment A. Partner shall supply to the Agency copies of all relevant invoices, receipts or other evidence reasonably requested by the Agency showing the awards was used to create or further the Healthy School Meals for all program. The maximum funding available under this Agreement is set forth in Attachment A and Agency is not obligated to fund Partner beyond this amount. The total amount of funding provided to Partner shall be based on actual expenses incurred, Services provided and/or achievement of Project Milestones and Deliverables as set forth herein, including without limitation Attachment A. Grant funds shall only be expended as necessary to carry out the purposes and activities of this Agreement. Grant funds should not be expended by Partner prior to the Start Date of this Agreement.
3. Performance. Partner shall, in compliance with the terms and conditions of this Agreement including all Addenda and Attachments which are hereby fully incorporated herein by reference (collectively, this Agreement and all Addenda and Attachments shall be referred to as the "Agreement"), perform and achieve all services, tasks, responsibilities, and requirements set forth herein, including without limitation the Scope of Work set forth in Attachment A.
4. Responsibilities. Partner agrees to furnish the necessary resources, supplies, materials, services, and otherwise to do all things necessary for the performance of the work described in the SOW, which is incorporated into the Agreement as Attachment A, along with compliance with the Budget required for that performance, which is incorporated into the Agreement as Attachment A. Contractor shall provide written reports in accordance with Attachment A. The timing and regularity of the reports required hereunder are subject to change with prior written notice from Agency. If requested in writing by Agency, Partner agrees to provide such other reports as WICHE or the Foundation may reasonably require.
5. Standards of Work. Partner agrees to perform the Services, complete the Scope of Work, and achieve the requirements of this Agreement in a manner consistent with the level of care and skill ordinarily exercised by partners currently practicing under similar conditions, particularly in reference to restricted or sponsored programs.
6. Term. Subject to approval of the Agency and the provisions for termination as hereinafter provided, the term of this Agreement shall commence on the Start Date or the date this Agreement is fully executed (whichever date is later), and end no later than the End Date (the "Term"), unless the period is extended by modification of

this Agreement, through mutual written agreement of the parties and Foundation approval. The Term of this Agreement may be further divided into "Budget Periods", as defined in Attachment A. Agency may alter and amend the definition of Budget Period from time to time at its discretion or at the direction of the Foundation.

7. Termination. Unless agreed upon by both parties to the Agreement, neither Agency nor Partner may terminate this Agreement during the Term unless the non-breaching party is in material breach of the terms and conditions of this Agreement. If, at any time, a party is found to be in material breach of this Agreement, this Agreement may be terminated by the non-breaching party without prior notice. This Agreement will be automatically terminated in the event that funds under the Grant are discontinued by the Funder for any reason. Such termination will take effect immediately upon written notice sent to Partner by Agency. This Agreement may be modified by Agency in the event that funding priorities under the Grant are modified by the Agency. In the event of termination, if Partner claims any amounts incurred prior to termination, partial payment up to the termination date will be determined by incurrence of allowable cost upon review of Partner's records, subject to availability of Grant funds.

8. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR LOST OR IMPUTED PROFITS ARISING OUT OF THIS CONTRACT.

9. Warranty of Originality of Work; Non-Infringement. Partner represents and warrants to Agency that all Work, and all pre-existing work incorporated by Partner is the original creation of Partner, or, alternatively, that Partner owns the rights thereto or is otherwise legally authorized to use, execute, reproduce, display, perform, distribute copies of, sublicense, or create derivative works therefrom as required to fulfill Partner's obligations pursuant to this Agreement, and that any such Work or pre-existing work is free from infringement and shall not infringe upon the rights of any third party.

10. Access to Records.

10.1 Agency, its auditors, and if necessary, the Funder, will be provided access to Partner's programmatic and financial records upon request.

10.2 Partner will maintain all programmatic and financial records, including, but not limited to:

- records providing a full description of each activity undertaken;
- records demonstrating that each activity undertaken meets the objectives of the Contract;
- records required to determine the eligibility of activities;
- records documenting compliance with all applicable local, state and federal laws, codes and regulations; and financial records required herein and by any other applicable laws, codes, or regulations, including itemized receipts and invoices for all products and services purchased, timesheets for personnel, standard practice documents as normally are required by the Uniform Grant Guidance (

https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl) etc.

10.3 Partner shall retain all records pertinent to activities and financial expenditures incurred under this Agreement for a period of three years after the date of submission of the final report under this Agreement. Notwithstanding the above, in the event of any litigation, claims, disputes, audits, negotiations, written notification from the federal, state or local agencies or Agency, or other actions that involve any of the records required under this Agreement, then such records must be retained until completion of the litigation, claims, disputes, audits, negotiations, or written notification and resolutions of all related issues, or the expiration of the three-year period, whichever occurs later.

11. Nondisclosure/Confidentiality; Return of Confidential Information.

11.1. **"Confidential Information"** herein shall be defined as any information not in the public domain that is of value to, and treated confidentially by, Agency and/or its clients or customers, including without limitation, Trade Secrets, information or knowledge about the business policies, business plans, internal structure, finances, marketing and communications, customers and clients, products and services, procedures, techniques, or methods of the business of Agency or Agency's client(s). Confidential Information shall not include any said information that

is public, well known in the industry, in the possession of Partner prior to any engagement by Agency, or that Partner is compelled to disclose by legal process or order of law.

11.2. Partner will not, directly or indirectly, reveal, divulge or make known to any person, firm, partnership, limited liability company or corporation whatsoever, or use for Partner's own benefit or the benefit of any other person, firm, partnership, limited liability company, corporation or other entity, any Confidential Information within Partner's possession or which Partner may have acquired during the course of the relationship with Agency or its clients and customers.

11.3. Partner warrants and represents that, immediately upon termination of this Agreement or the request of Agency, Partner will return to Agency any proprietary or Confidential Information, including any electronic media and copies thereof, within Partner's possession, custody or control, or upon Agency's request, destroy any such Confidential Information. If requested by Agency, Partner shall certify in writing that Partner is in compliance with the return or destruction obligation under this section.

12. Use of Trade Secrets or Confidential Information.

12.1. "**Trade Secrets**" herein shall be defined as any and all information of Agency, or of Agency's client(s), in any format, including without limitation any plans, designs, programs, compilations, methods, techniques, or processes, that derives independent economic value because it is not generally known to, or readily discoverable by proper means, by third parties who may derive economic value from its discovery or use, and that is the subject of reasonable efforts to maintain its secrecy.

12.2. Partner shall use the Trade Secrets or Confidential Information of Agency or Agency's customer(s) or client(s) exclusively for the benefit of Agency and Agency's customer(s) or client(s). Partner shall not use, reproduce, reverse engineer, decompile, disassemble, distribute, transmit, or transfer, directly or indirectly, any Trade Secret or Confidential Information, or portion thereof, without the prior written consent of Agency. Partner shall take reasonable steps to safeguard the confidentiality of such Trade Secrets, and agrees to be bound by the same obligations of confidentiality, nondisclosure, and use of such Trade Secrets to which Agency and/or Agency personnel is legally bound.

13. Non-Solicitation of Agency Clients, Partners, and Employees. Partner agrees that while providing services for Agency, and for a period 2 years following the termination of this Agreement or cessation of services to Agency for any reason, Partner will not, directly or indirectly, for Partner's own benefit or for the benefit of any other person or legal entity, solicit, induce, entice or in any manner influence any Partner, consultant, or employee to leave the service of Agency to provide the same or substantially similar services or work that such Partner, consultant or employee performed for Agency. Partner further agrees that while providing services for Agency, and for a period of 2 years following the termination of this Agreement or cessation of services to Agency for any reason, Partner will not, directly or indirectly, for Partner's own benefit or for the benefit of any other person or legal entity, solicit, induce, entice or in any manner influence any customer or client of Agency to provide the same or substantially the same services that Agency provides for said customer or client.

14. Warranty of No Conflicting Agreements; Conflict of Interests. Partner represents and warrants that Partner is not a party to or bound by any agreement or obligation, the terms of which are in conflict with any terms of this Agreement, or which would be breached by Partner's entering of this Agreement, including any agreement restricting or preventing the competitive or other activity or work of Partner. A conflict of interests for purposes of this section shall also include any business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of Partner's obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, Partner shall immediately inform the Agency in writing of such conflict. If, in the reasonable judgment of Agency, such conflict poses a material conflict to and with the performance of Partner's obligations under this Agreement, then the Company may terminate the Agreement immediately upon written notice to Partner; such termination of the Agreement shall be effective upon the receipt of such notice by Partner.

15. Remedies. Recognizing that a remedy at law for any breach or threatened breach of the restrictive covenants set forth in this Agreement would be inadequate, in that any such breach or threatened breach would cause such immediate and permanent damage to Agency as would be irreparable and the exact amount of which would be impossible to ascertain, the Partner agrees that in the event of any breach of any such covenants, in addition to any and all other legal and equitable remedies which may be available, Agency may obtain preliminary and/or permanent injunctive relief against the Partner without the necessity of proving the actual damages by reason of such breach, and to the extent permissible under the applicable statutes and rules of procedure a temporary restraining order may be granted immediately upon the commencement of any suit and without prior notices.

16. Status of Partner. Partner's relationship to Agency is that of an independent partner, and nothing in this Agreement shall be construed to create a relationship of employment between Partner and Agency. Partner shall be responsible for the accounting and payment of any local, state, or federal income taxes associated with any payments received from Agency pursuant to this Agreement. Barring any conflict of interest as described in Section 10, Partner shall retain the right to perform work for other Companies during the term of this Agreement, and Agency shall retain the right to engage other Partners to perform work or services of the same or different kind as provided by Partner during the term of this Agreement. Partner shall have no right to enter into any contracts or commitments on behalf of Agency without Agency's prior written approval.

17. Notices. Any notice shall be deemed given on the day of receipt if notice is transmitted by postal mail or commercial courier, or upon the date of transmission if transmitted electronically. Any notice required under this Agreement shall be delivered:

if to Agency, to:

Eric Anderson, Principal
d/b/a SE2
2250 S. Delaware St., Denver, CO 80223
eric@se2changeforgood.com

if to Partner, to:

Serena Sakkal, Program Manager, Pueblo Food Project
1 City Hall Pl, Pueblo, CO 81003
serena@pueblofoodproject.org

16. No Assignment. This Agreement shall not be assignable, transferable, or delegated by Partner without the written authorization of Agency. This Agreement shall inure to the benefit of and be binding upon the respective heirs, personal representatives, successors and assigns of the parties hereto.

17. Severability. If any provisions of this Agreement shall be invalid or unenforceable, in whole or in part, then such provision shall be deemed to be modified or restricted to the extent and in the manner necessary to render the same valid and enforceable, as the case may be, and any such modification or restriction shall not affect the validity of any other provision herein.

18. Governing Law; Jurisdiction. This Agreement shall be construed under and governed by the laws of the state of Colorado. The Parties agree that any litigation arising under this Agreement will be brought and venued exclusively in Arapahoe County, Colorado.

19. Entire Agreement; Modification. This Agreement contains the entire terms and conditions agreed upon by Agency and the Partner regarding Partner's services, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties hereto. This Agreement may not be modified in any respect except in writing signed by the party against whom enforcement is sought.

20. No Waiver. The failure of Agency on one or more occasions to demand compliance with any term hereof shall not be construed as a waiver or deprive Agency of the right thereafter to insist upon strict compliance therewith.

EXHIBIT A

Insurance Requirements:

Workers' Compensation: Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Contractor employees acting within the course and scope of their employment.

General Liability: Commercial general liability insurance written covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- \$1,000,000 each occurrence
- \$1,000,000 general aggregate
- \$1,000,000 products and completed operations aggregate; and
- \$50,000 any 1 fire

Automobile Liability: Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit

Protected Information: Liability insurance covering all loss of State confidential information, such as PII, PCI, PHI, Tax Information, and CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:

- \$1,000,000 each occurrence; and
- \$2,000,000 general aggregate

Professional Liability Insurance: Professional liability insurance covering any damages caused by an error, omission, or any negligent act with minimum limits as follows:

- \$1,000,000 each occurrence; and
- \$1,000,000 general aggregate

Crime Insurance: Crime insurance including employee dishonesty coverage with minimum limits as follows:

- \$1,000,000 each occurrence; and
- \$1,000,000 general aggregate

Additional Insured: The State of Colorado shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Contractor.

Primacy of Coverage: Coverage required of Contractor shall be primary over any insurance or self-insurance program carried by Contractor or the State.

Cancellation: The above insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Contractor and Contractor shall forward such notice to Agency within 7 days of Contractor's receipt of such notice.

Subrogation Waiver: All insurance policies secured or maintained by Contractor in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Contractor, Agency, or the State of Colorado, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

Public Entities: If Contractor is a “public entity” within the meaning of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S. (the “GIA”), Contractor shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA.

Certificates: Contractor shall provide to Agency certificates evidencing Contractor’s insurance coverage required in this Agreement within 7 business days following the Effective Date. No later than 15 days before the expiration date of Contractor’s coverage, Contractor shall deliver to Agency certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by Agency, Contractor shall, within 7 business days following the request by Agency, supply to Agency evidence satisfactory to Agency of compliance with this provision.

THIS AGREEMENT IS A LEGALLY BINDING CONTRACT. IF YOU HAVE ANY QUESTIONS OF LAW, YOU ARE ADVISED TO CONSULT YOUR ATTORNEY.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year indicated below.

SE2

Eric Anderson
Eric Anderson (Dec 6, 2023 17:58 MST)

Eric Anderson, Principal

Name/Title

Dec 6, 2023
Date

Partner:

Name/Title

Fed. I.D. #

Date



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Barb Huber, Fire Chief

SUBJECT: AN ORDINANCE APPROVING THE GRANT AGREEMENT BETWEEN THE CITY OF PUEBLO AND CARING FOR COLORADO FOUNDATION FOR THE DOTS PROGRAM AND ACCEPTANCE OF \$15,000 FOR PROJECT PS2401 AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

SUMMARY:

The Grant Agreement, administered by the Pueblo Fire Department, is for identifying and providing ramps in the community for the DOTS Program (Directing Others To Services) through financial assistance. The amount of \$15,000 will be placed in project number PS2401 for said purpose.

PREVIOUS COUNCIL ACTION:

Not applicable

BACKGROUND:

The Pueblo Fire Department works closely in partnership with other agencies in the community to help citizens with physical resources such as providing ramps for access to their homes. The Directing Others to Services (DOTS) program is a community based program whose purpose is to connect community members with these resources.

FINANCIAL IMPLICATIONS:

Administration of the DOTS program.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

None.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10636

AN ORDINANCE APPROVING THE GRANT AGREEMENT BETWEEN THE CITY OF PUEBLO AND CARING FOR COLORADO FOUNDATION FOR THE DOTS PROGRAM AND ACCEPTANCE OF \$15,000 FOR PROJECT PS2401 AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

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

SECTION 1.

The Grant Agreement, attached hereto, after being approved by the City Attorney, is hereby approved, and the grant funds of \$15,000 is to be placed in project PS2401 for use in the DOTS program, is hereby approved.

SECTION 2.

The Mayor, is hereby authorized to execute said Grant Agreement for and on behalf of the City and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 3.

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

SECTION 4.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 26, 2023.

Final adoption of Ordinance by City Council on January 8, 2024.

APPROVED: 
PRESIDENT OF CITY COUNCIL

Action by the Mayor:

☒ Approved on January 10, 2024.

☐ 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: January 8, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Barb Huber, Fire Chief

SUBJECT: AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, AND OTERO COUNTY RELATING TO MUTUAL AID IN THE PROVISION OF FIRE PROTECTION AND OTHER EMERGENCY SERVICES

SUMMARY:

This ordinance approves an IGA with Otero County for mutual fire protection and other emergency services. The IGA is attached hereto.

PREVIOUS COUNCIL ACTION:

City Council has approved IGA's with for mutual aid for fire prevention in Ordinance No. 9266 with Rye Fire Protection District, Pueblo Rural Fire District, Pueblo West Metropolitan District, City of Boone, Colorado, West Park Volunteer Fire District, and Beulah Fire Protection and Ambulance District.

BACKGROUND:

When dealing with incidents and potential incidents that are beyond the response capacity of any organization, it is important to have a plan for increasing capacity. In the fire service, other neighboring agencies are looked at o provide that increased capacity. This agreement provides the means to access additional resources in times of increased demand at no cost for the first 24hoursof the incident. It is important to understand that this agreement does not require any agency to provide aid, if for any reason, they are unable to do so at any given time.

This mutual aid agreement between the City and Otero County will replace the 1986 reciprocal hazardous materials incident assistance agreement. The new agreement covers the emergency aid given and received between the signing agencies. This new agreement clearly defines the time periods of assistance and the mechanism for recovering costs associated with aid that goes beyond the agreed upon time periods of "mutual aid".

FINANCIAL IMPLICATIONS:

Reimbursement of consumables to Otero County after the 24 hours has expired for the incident.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

Greater deficiencies in fire protection and emergency services.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Otero County Resolution 23-205

ORDINANCE NO. 10637

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, AND OTERO COUNTY RELATING TO MUTUAL AID IN THE PROVISION OF FIRE PROTECTION AND OTHER EMERGENCY SERVICES

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

SECTION 1.

The Intergovernmental Agreement between Pueblo, a municipal corporation and Otero County, Colorado, a political subdivision of the State of Colorado relating to mutual aid in the provision of fire protection and other emergency services, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute said Agreement for and on behalf of the City and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 3.

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

SECTION 4.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 26, 2023.

Final adoption of Ordinance by City Council on January 8, 2024.

APPROVED: 
PRESIDENT OF CITY COUNCIL

Action by the Mayor:

☒ Approved on January 10, 2024.

☐ 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

RESOLUTION NO. 23- 205

**THE BOARD OF COUNTY COMMISSIONERS
OF PUEBLO COUNTY, COLORADO**

**APPROVING THE MUTUAL AID AGREEMENT FOR ALL HAZARD RESPONSE
SERVICES**

WHEREAS, to establish the terms and conditions by which the listed parties (Collectively the “Parties” and individually the “Party”) may request aid and assistance from the other Party with respect emergency services in responding to a significant event, an emergency or a disaster that exceeds the resources available to the requesting Party, the Parties desire to clarify the role and duties of each Party and have submitted a Mutual Aid Agreement between the following Parties:

- Pueblo, a Municipal Corporation,
- Pueblo County, Colorado, a political subdivision of the State of Colorado,
- Rye Fire Protection District,
- Pueblo Rural Fire District,
- Pueblo West Metropolitan District,
- West Park Volunteer Fire District, and
- Beulah Fire Protection and Ambulance District
- Otero County Sheriff's Office
- Otero County Office of Emergency Management
- Fowler Rural Fire Protection District
- Manzanola Rural Fire Protection District
- Rocky Ford Fire Department
- Rocky Ford Rural Fire Protection District
- City of La Junta Fire Department
- La Junta Rural Fire Protection District
- Cheraw Volunteer Fire Department

WHEREAS, the Colorado General Assembly has authorized such intergovernmental mutual aid agreements by the provisions of Section 29-1-203 C.R.S.; and

WHEREAS, the danger of catastrophes to the public welfare knows no jurisdictional boundary; and

WHEREAS, each of the Parties desire to aid and assist each other by the exchange of services and equipment for the purposes of preserving the health, safety and welfare of their inhabitants; and

RESOLUTION NO. 23- 205 (CONTINUED)

WHEREAS, through cooperation in mutual aid, each Party may have greater resources available to aid their community in time of disaster; and

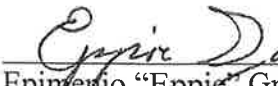
WHEREAS, it is the recommendation of the Pueblo County Sheriff's Office, Emergency Services Bureau, that a Mutual Aid Agreement be entered into with the listed Parties to serve a public purpose and promote the safety, security, and general welfare of the public; and

WHEREAS, this Board concurs with the that recommendation and desires to execute the Mutual Aid Agreement with the Parties regarding request for aid and assistance in responding to requests for aid and assistance from the other Parties with respect to emergency services.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pueblo County, Colorado, that the Mutual Aid Agreement between the Parties regarding request for aid and assistance in responding to a significant event, an emergency, or a disaster, the terms and conditions of which are incorporated herein by this reference, is hereby approved and the Chair of the Board of County Commissioners of Pueblo County, Colorado, is authorized to execute said Agreement on behalf of Pueblo County.

PASSED AND ADOPTED this 21st day of November 2023, in Pueblo County, Colorado.

**THE BOARD OF COUNTY COMMISSIONERS
OF PUEBLO COUNTY, COLORADO**

By: 
Epimerio "Eppie" Griego, Chair

ATTEST:

By: 
Candace Rivera, County Clerk

U:\SH-ESB\RES\MWGW Mutual Aid All Hazards Response 2023.DOC

MUTUAL AID AGREEMENT FOR ALL HAZARDS RESPONSE SERVICES BETWEEN THE
AGENCIES OF PUEBLO COUNTY AND OTERO COUNTY

THIS MUTUAL AID AGREEMENT ("MAA"), entered into as of this _____ day of _____ 20__, is made by and between the following parties:

Pueblo, a municipal corporations,
Pueblo County, Colorado, a political subdivision of the State of Colorado,
Rye Fire Protection District,
Pueblo Rural Fire District,
Pueblo West Metropolitan District,
West Park Volunteer Fire District, and
Beulah Fire Protection and Ambulance District
Otero County Sheriff's Office
Otero County Office of Emergency Management
Fowler Rural Fire Protection District
Manzanola Rural Fire Protection District
Rocky Ford Fire Department
Rocky Ford Rural Fire Protection District
City of La Junta Fire Department
La Junta Rural Fire Protection District
Cheraw Volunteer Fire Department

(Collectively the "Parties" and individually the "Party")

WHEREAS, Section 18(2)(a) and (b) of Article XIV of the Colorado Constitution and the Colorado Intergovernmental Relations Statute, Section 29-1-201, et seq., C.R.S. authorizes political subdivisions to cooperate and contract with one another to provide any function, service or facility lawfully authorized to each of the Parties, including the sharing of costs, if such agreement sets forth fully the purposes, powers, rights, obligations, and responsibilities, financial or otherwise, of the contracting parties;

WHEREAS, each Party is political subdivision as defined in section 29-1-202(2), C.R.S. and is authorized to provide fire protection and other emergency services including but not limited to fire protection, hazardous material response, extrication, rescue, ambulance, and/or emergency medical services, within their jurisdictional boundaries and under certain circumstances outside their jurisdictional boundaries;

WHEREAS, emergencies may arise in one or another of the jurisdictions of the Parties, resulting in greater demands than a Party's personnel and equipment can handle, or emergencies of such intensity may occur that they cannot be handled by the equipment of a Party in whose jurisdiction the emergency occurs; and

WHEREAS, establishment of a mutual aid agreement will serve a public purpose and will promote the safety, security and general welfare of the public.

NOW THEREFORE, in consideration of the mutual performance of the covenants, agreements and promises set forth herein, the Parties agree as follows:

1. Definitions. The following terms used in this Agreement are defined as follows:

a. "Responding Party" means a Party providing or requested to provide Mutual Aid within the jurisdictional boundaries of the Requesting Party.

b. "Equipment Costs" means the costs set forth in the current FEMA Schedule of Equipment Rate or at the current Cooperator Resource Rate of the Colorado Division of Fire Prevention and Control, whichever rate applies to the event, and if the event does not qualify, it shall be the current Cooperator Resource Rate of the Colorado Division of Fire Prevention and Control.

c. "Personnel Costs" means actual hourly salary/wages paid including overtime plus the cost of the employee's actual fringe benefits. Fringe benefit cost shall be calculated based upon a percentage of the employee's hourly rate of pay.

d. "Mutual Aid" means the provision of personnel and/or equipment from an Responding Party to a Requesting Party to aid the Requesting Party with respect to fire protection and other emergency services.

e. "Requesting Party" means a Party requesting Mutual Aid be provided by a Responding Party within the jurisdictional boundaries of the Requesting Party.

3. Mutual Aid.

a. Any Party to this MAA may request Mutual Aid from another Party. Any request for Mutual Aid shall include a statement of the amount and type of personnel and/or equipment requested, and shall specify the location to which the personnel and/or equipment are to be dispatched. In making any such request for Mutual Aid, the Requesting Party represents that there are sufficient funds appropriated to pay all reimbursements which may be incurred under this MAA, and the Responding Party may rely upon such representation in providing Mutual Aid.

b. Upon receipt of a request for Mutual Aid from the Requesting Party, the Responding Party may dispatch personnel and/or equipment which the Responding Party determines is available. Such determination shall be made at the Responding Party's sole and absolute discretion, which determination shall be final and conclusive. The Responding Party may dispatch less than the amount and type of personnel and/or equipment requested, but the Responding Party may not dispatch personnel and/or equipment which exceeds the amount and type of equipment and or personnel requested without the authorization of the Requesting Party.

c. The Responding Party's personnel and/or equipment shall be released by the Requesting party when the assistance of the Responding Party is no longer required or when the Responding Party determines in its sole and absolute discretion that Responding Party's personnel and/or equipment are needed elsewhere, which determination shall be final and conclusive.

d. The Responding Party's personnel and/or equipment shall be and remain under the control of the Responding Party's commanding officer but will fall into the Requesting Party's command structure. The Responding Party's commanding officer will receive assignments and tasks from the Requesting Party's Incident Commander.

e. Mutual Aid under this MAA shall only be provided within the boundaries of the Requesting Party and shall not be provided to cover areas outside the boundaries of a Requesting Party even if the Requesting Party has an agreement to provide service to another party who is not signatory to this MAA.

f. The Responding Party agrees that the first twenty-four (24) hours of Mutual Aid shall be provided without reimbursement of Personnel Costs and Equipment Costs by the Requesting Party to the Responding Party. For all periods of time following the first twenty-four (24) hours, the Responding Party shall be reimbursed its Personnel Costs and Equipment Costs by the Requesting Party. The twenty-four (24) hour period referenced in this Section shall begin at the time the request is made by the Requesting Party so long as it is within the first operational period. Requests beyond the first operational period will be considered an ongoing operation and as such will be a billable response to the incident. In addition and with respect to said twenty-four (24) hour period, the Requesting Party shall reasonably pursue any and all legal reimbursement possible pursuant to state and federal laws, including but not limited to reimbursement for hazardous materials incidents, and upon full or partial payment, the Requesting Party shall distribute the reimbursement in a fair and equitable manner which is proportionate to the documented expenses of all parties who provided services with respect to the incident upon which the reimbursement is paid. The Parties acknowledge and agree that any distribution for hazardous materials incidents which may be required under this Section or otherwise under this MAA shall not impair or supersede any separate agreement a Party may have presently or hereafter to transfer and deposit any such distribution to the Pueblo County Hazmat Fund.

g. The extension of work beyond the initial twenty-four (24) hour mutual aid period shall be billable to the incident for reimbursement. If a mutual agreement by the parties at the time of the all-hazard incident, the Responding Party may continue to provide assistance beyond the twenty-four (24) hour period without compensation by the Requesting Party.

h. The Requesting Party shall be responsible for providing for or reimbursing the use of firefighting foam, special extinguishing agents, medical equipment and similar consumables when use is requested by the Requesting Party.

i. The Responding Party shall be self sufficient for the first 24 hours after being requested, to include all meals and lodging. After the first 24 hours, the Requesting Party will be responsible for all meals and any lodging at the Requesting Party's preference.

j. The Responding Party will provide the Requesting Party with a bill, invoice, or demand for reimbursement along with a detailed accounting of costs incurred by the Responding Party which are subject to reimbursement pursuant to this MAA no later than sixty (60) days after the conclusion of Mutual Aid.

4. Each Party shall be expected to maintain its equipment and organize its emergency response method with both personnel and equipment to the degree necessary to meet the ordinary and routine fire protection and other emergency services occurring within its boundaries and for which the Party is organized. The Parties recognize that the dispatch of equipment and/or personnel under this MAA is voluntary and is not required, and specifically acknowledge that a Requesting Party shall not expect any other Party to provide Mutual Aid where the request arises due to a failure of the Requesting Party to organize available personnel or maintain equipment in reasonably working order and in sufficient quantity to meet the ordinary and routine fire protection and other emergency services occurring within

its boundaries and for which the Party is organized. Nothing in this Agreement prevents two or more of the Parties from entering into contracts, automatic aid agreements or other methods to meet their responsibilities as agreed between those Parties.

5. Except with respect to the reimbursements agreed to in the above Section 3, each Party waives all claims against the other Party for compensation for any loss, property damage, bodily injury, or death occurring as a direct or indirect consequence of the performance of this MAA. The Parties specifically recognize and agree that no liability of any kind or nature shall be attributed to or be assumed by a Party, its duly authorized agents and personnel, for failure or refusal to provide MutualAid or for withdrawal of Mutual Aid once provided pursuant to the terms of this MAA.

6. Nothing in this MAA shall be construed to alter or modify the status of employment of the personnel with their Party. Employees of a Party shall at all times remain the employees of that Party, and the each Party shall be responsible for worker's compensation coverage of its own employees and all other benefits and requirements of employment including pension, disability, level or types of training, and internal discipline.

7. Each Party is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S. (the "GIA") and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA including any liability which may accrue by operation of Section 29-5-108, C.R.S. No provision of this MAA shall be deemed or construed to be a relinquishment or waiver of any kind of the applicable limitations of liability provided to each Party by the GIA.

8. This MAA is not intended to, nor should it be construed to, create, affect or extend the legal responsibilities or liabilities of the Parties hereto except as expressly stated herein, nor to create any rights, claims, or benefits or assume any liability for or on behalf of any third party.

9. By signing this MAA, the governing body of each Party is hereby deemed to have approved the provision of Mutual Aid beyond its boundaries, and any Mutual Aid provided pursuant to this MAA shall not require any further approval by the governing body of any Party.

10. All communications made to the parties under this MAA shall be provided at the following address:

Fire Chief
City of Pueblo Fire Department
1551 Bonforte Blvd.
Pueblo, CO 81001

Bureau Chief
Emergency Services Bureau
Pueblo County Sheriff's Office
Pueblo County
101 W. 10th Street
Pueblo, CO 81003

Fire Chief
Rye Fire Protection District
4495 Bent Brothers Blvd./P.O. Box 19190
Colorado City, CO 81019

Fire Chief
Pueblo Rural Fire District
29912 Highway 50 East
Pueblo, CO 81006

Fire Chief
Pueblo West Fire Department
Pueblo West Metropolitan District
P.O. Box 7005
Pueblo West, CO 81007

Fire Chief
West Park Volunteer Fire District
3926 Goodnight Ave.
Pueblo, CO 81005

Fire Chief
Beulah Fire Protection and Ambulance District
PO BOX 826
Beulah, CO 81023

Sheriff
Otero County Sheriff's Office
222 East 2nd St.
La Junta, CO 81050

Fire Chief
City of La Junta Fire Department
601 Colorado Ave/PO Box 489
La Junta, CO 81050

Fire Chief
La Junta Rural Fire Protection District
PO Box 1066
La Junta, CO 81050

Fire Chief
Rocky Ford Fire Department
300 S. Main
Rocky Ford, CO 81067

Fire Chief
Rocky Ford Rural Fire Protection District
300 S. Main
Rocky Ford, CO 81067

Fire Chief
Cheraw Volunteer Fire Department
210 N. 3rd
Cheraw, CO 81030

Fire Chief
Manzanola Rural Fire Protection District
100 S. Railroad/PO Box 177
Manzanola, CO 81058

Fire Chief
Fowler Rural Fire Protection District
215 7th St.
Fowler, CO 81039

Fire Chief
Otero County Emergency Management
411 N. Tenth St.
Rocky Ford, CO 81067

11. Nothing in this MAA shall be construed as creating a partnership, joint venture or the creation of a separate legal entity or be deemed to delegate or be construed as the delegation or assignment of power or authority of any Party to another Party.

12. A Party may terminate their participation in this MAA by giving ninety (90) days prior written notice to all other Parties. One Party's termination shall not cause the termination of this MAA between the other Parties, and the MAA shall continue in effect as to such other Parties. It is understood and acknowledged that the remaining Parties to the MAA will not assign any of their members or equipment to perform temporary firefighting or other duties on behalf of any Party terminating this MAA after the effective date of such termination.

13. All prior reciprocal fire protection or mutual aid agreements to provide fire protection and other emergency services between all or one or more of the Parties are hereby terminated and superseded by this MAA.

14. Miscellaneous.

a. This MAA represents the entire agreement between the Parties and supersedes all prior discussions and written agreements or understandings. This MAA may be amended only by an instrument in writing signed by the Parties. If any provision of this MAA is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this MAA shall continue in full force and effect. This MAA may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together constitute one and the same agreement.

b. Each person signing this MAA on behalf of a Party represents and warrants that he or she has the requisite power and authority to enter into, execute, and deliver this MAA on behalf of such Party and that this MAA is a valid and legally binding obligation of such Party enforceable against it in accordance with its terms.

c. Nothing herein shall constitute, nor deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by any Party, contrary to Article X, § 20 Colorado Constitution or any other constitutional, statutory or charter debt limitation.

d. The provisions of this MAA pertaining to insurance and reimbursement shall survive the expiration of the term of this MAA and termination of this MAA and continue in effect for a period of five years following the termination of this MAA and for such further time as it may take to completely and finally negotiate, settle, or litigate any claim or suit concerning the same.

e. This MAA shall be governed by the laws of the State of Colorado. Venue for any action arising under this MAA or for the enforcement of this MAA shall be in a state court with jurisdiction located in Pueblo County, Colorado.

f. This MAA shall not be assigned by any Party without the prior written consent of the Parties, which consent may be granted, denied, or conditioned in the in each of the Party's sole and absolute discretion.

Executed at Pueblo, Colorado, the day and year first above written.

[S E A L]

Pueblo, a Municipal Corporation

ATTEST: _____
City Clerk

By _____
President of the City Council

[SEAL]

Pueblo County, Pueblo County, Colorado, a political subdivision of the State of Colorado

ATTEST: *Eudace River*
Pueblo County Clerk and Recorder

By *Cyril D...*
Chairman of the Board of County Commissioners

[SEAL]

Rye Fire Protection District

ATTEST: _____
Title: _____

By _____
Title: _____

[SEAL]

Pueblo Rural Fire District

ATTEST: _____
Title: _____

By *Michael Forney*
Title: MICHAEL FORNEY - CHIEF

[SEAL]

Pueblo West Metropolitan District

ATTEST: *[Signature]*
Title: Bryan Wane - Fire Chief

By *[Signature]*
Title: S. KINZ - DIV. CHIEF

[SEAL]

West Park Volunteer Fire District

ATTEST: _____
Title: _____

By *[Signature]*
Title: CHIEF

[SEAL]

ATTEST:

Title:


Attn. Chief

Beulah Fire Protection and Ambulance District

By

Title:


Fire Chief

[SEAL]

ATTEST:

Title:


Deputy Chief

City of La Junta Fire Department

By

Title:


Fire Chief

[SEAL]

ATTEST:

Title:


Deputy Chief

La Junta Rural Fire Protection District

By

Title:


Fire Chief

[SEAL]

ATTEST:

Title:


Fire Chief

Rocky Ford Fire Department

By

Title:


Fire Chief

[SEAL]

ATTEST:

Title:


Fire Chief

Rocky Ford Rural Fire Department

By

Title:


Fire Chief

[SEAL]

ATTEST:

Title:


Fire Chief

Cheraw Volunteer Fire Department

By

Title:


Fire Chief

[SEAL]

ATTEST:

Title:


Fire Chief

Manazola Rural Fire Protection District

By

Title:


Fire Chief

[S E A L]

ATTEST: [Signature]
Title: Fire Chief

Fowler Rural Fire Protection District

By Tyler Norris
Title: Fire Chief

[S E A L]

ATTEST: [Signature]
Title: Emergency Manager

Otero County Emergency Management

By Danny Chavez
Title: Emergency Manager

[S E A L]

ATTEST: [Signature]
Title: Fire Chief

Otero County Sheriff

By [Signature]
Title: Sheriff



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: January 8, 2024

TO: President Mark Aliff 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 AN AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE HOUSING AUTHORITY OF THE CITY OF PUEBLO, A COLORADO NON-PROFIT CORPORATION ALLOWING FOR THE DELAY OF THE INSTALLATION OF LANDSCAPE IMPROVEMENTS FOR THE CRAWFORD TOWNHOMES PHASE 3 OF PHASE 2B AS REQUIRED BY SECTION 17-4-7 LANDSCAPE PERFORMANCE STANDARDS OF THE PUEBLO MUNICIPAL CODE AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance approves an Agreement between the City of Pueblo ("City") and the Housing Authority of the City of Pueblo ("Housing Authority") allowing for the delay of the installation of landscape improvements for the Crawford Townhomes Phase 3 of Phase 2B as required by Section 17-4-7 Landscape Performance Standards of the Pueblo Municipal Code until May 31, 2024.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This Ordinance approves an Agreement between the Housing Authority and the City to allow the Housing Authority to delay the installation of landscape improvements for the Crawford Townhomes Phase 3 of Phase 2B as required by Section 17-4-7 Landscape Performance Standards of the Pueblo Municipal Code until May 31, 2024. The delay is being requested by the Housing Authority due to impending adverse weather conditions. This delay in the enforcement of the landscape requirements will allow for the Housing Authority to secure certificates of occupancy and allow for the newly constructed apartments to be occupied prior to the landscaping being completed. The remaining landscaping consists of trees, shrubs, plants, and sod in accordance with the

approved landscape plan dated May 3, 2023, for the Crawford Town Homes Phase 3 of Phase 2B. If the installation of the landscaping is not completed by May 31, 2024, the Housing Authority shall provide an irrevocable letter of credit or 1 and ½ times escrow of the estimated costs in accordance with Section 17-4-7 (b) (8) a. 5. – Landscape Performance Standards of the Pueblo Municipal Code.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

If City Council does not approve this Ordinance, the Housing Authority will not be authorized to receive certificates of occupancy for these new units until the landscape improvements are completed in compliance with the landscape standards.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. Agreement for Housing Authority to delay landscape improvements_FINAL

ORDINANCE NO. 10638

AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE HOUSING AUTHORITY OF THE CITY OF PUEBLO, A COLORADO NON-PROFIT CORPORATION ALLOWING FOR THE DELAY OF THE INSTALLATION OF LANDSCAPE IMPROVEMENTS FOR THE CRAWFORD TOWNHOMES PHASE 3 OF PHASE 2B AS REQUIRED BY SECTION 17-4-7 LANDSCAPE PERFORMANCE STANDARDS OF THE PUEBLO MUNICIPAL CODE AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, the City and the Housing Authority of the City of Pueblo are desirous of setting forth their mutual understanding relating to the completion of the landscape improvements for the Crawford Townhomes Phase 3 of Phase 2b as required by Section 17-4-7 Landscape Performance Standards of the Pueblo Municipal Code; NOW; THEREFORE;

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

SECTION 1.

The Agreement between the City of Pueblo, a Colorado Municipal Corporation ("City") and the Housing Authority of the City of Pueblo, a Colorado non-profit corporation ("Housing Authority") to delay the completion of landscape improvements for the Crawford Townhomes Phase 3 of Phase 2b as required by Section 17-4-7 Landscape Performance Standards of the Pueblo Municipal Code, a copy of which is attached and incorporated herein, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

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

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 immediately upon final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 26, 2023.

Final adoption of Ordinance by City Council on January 8, 2024.

APPROVED: 
PRESIDENT OF CITY COUNCIL

Action by the Mayor:

☒ Approved on January 10, 2024.

☐ Disapproved on _____ based on the following objections:


Mayor

Action by City Council After Disapproval by the Mayor:

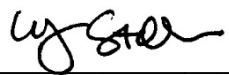
☐ Council did not act to override the Mayor's veto.

☐ 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

**AN AGREEMENT BETWEEN THE CITY OF PUEBLO
AND THE HOUSING AUTHORITY OF THE CITY OF PUEBLO
ALLOWING FOR THE DELAY OF REQUIRED LANDSCAPE
IMPROVEMENTS FOR THE CRAWFORD TOWNHOMES PHASE 3 OF
PHASE 2B, AFFORDABLE HOUSING PROJECT**

This Agreement ("Agreement") is between the City of Pueblo, a Colorado Municipal Corporation ("City") and The Central Resident Council for The Housing Authority of the City of Pueblo, a Colorado Non-Profit Corporation ("Housing Authority").

RECITALS

WHEREAS, Housing Authority is a quasi-governmental agency that operates under HUD guidelines and has been providing its services in the City of Pueblo since 1953; and,

WHEREAS, Housing Authority wishes to delay the final installation of the required landscape improvements, due to impending adverse weather, for the Crawford Townhomes Phase 3 of Phase 2B, project as required by Section 17-4-7. – Landscape Performance Standards of the Pueblo Municipal Code, until May 31, 2024; and,

WHEREAS, Housing Authority agrees to complete the installation of specified plants in compliance with the landscape plan approved by the City of Pueblo Planning & Community Development Department on May 3, 2023, as shown on Exhibit A; and,

WHEREAS, City is willing to allow for a delay in the final installation of required landscape improvements due to inclement winter weather conditions in order for the Housing Authority to comply with their occupancy requirements.

NOW, THEREFORE, in consideration of the foregoing and mutual covenants contained herein, City and Housing Authority agree as follows:

TERMS AND CONDITIONS

SECTION 1. HOUSING AUTHORITY’S OBLIGATIONS.

1.1 Housing Authority shall complete the installation of trees, shrubs, plants, and sod in accordance with the approved landscape plan dated May 3, 2023, for the Crawford Town Homes Phase 3 of Phase 2B project by May 31, 2024.

1.2 If the installation of landscaping is not completed by May 31, 2024, Housing Authority shall provide an irrevocable letter of credit or 1 and ½ times escrow of the estimated costs in accordance with Section 17-4-7 (b) (8) a. 5. – Landscape Performance Standards of the Pueblo Municipal Code.

SECTION 2. CITY'S OBLIGATIONS

2.1 Provided all performance standards and requirements, except for the landscape improvements referenced in Section 1.1 above and as shown on Exhibit A, are completed in accordance with requirements for the approval of a Certificate of Occupancy, the City will approve authorization for the issuance of certificates of occupancy for the structures within Lot 2, Uplands Townhomes, Filing No. 3 Subdivision by the Pueblo Regional Building Department.

2.2 If the Housing Authority does not complete the installation of required landscaping by May 31, 2024. The Housing Authority must provide an irrevocable letter of credit or stipulated escrow funds as described in Section 1.2 above and the City shall have the right to enforce compliance with the landscape requirements under Section 17-4-7 (b) (8) c. of the Pueblo Municipal Code.

SECTION 3. MISCELLANEOUS.

3.1 Notices. Any notice, demand or request provided in this Agreement shall be in writing and sent by certified mail, return receipt requested to the other Party at the addresses listed below or at such other address as each party may provide the other by notice as provided in this section. Such notice shall be deemed to have been given when deposited in the regular United States mail:

If to City:

Mayor
City of Pueblo
One City Hall Place
Pueblo, CO 81001

With an additional copy to:

City Attorney
City of Pueblo
One City Hall Place
Pueblo, CO 81003

If to Housing Authority:

Steven Trujillo
Executive Director
201 South Victoria Avenue
Pueblo, CO 81003

OR to such other place as City or Housing Authority may from time to time designate in a written notice given to City.

3.2. Relationship. Nothing in this Agreement is intended to, or shall be deemed to constitute, a partnership or joint venture between the Parties, or to create any agency or partner relationship between the Parties. Neither Party shall hold itself out as a partner, joint venture, agent, or representative of the other under this Agreement.

3.3 Additional Documents or Action. The Parties agree to execute any additional documents or take any additional action that may be necessary to carry out this Agreement.

3.4. Assignment. This Agreement shall not be assigned by Housing Authority without the prior written consent of the City, which consent may be granted, denied, or conditioned in City's sole and absolute discretion.

3.5 Force Majeure. Any delays in or failure of performance by any party of its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, storms, lightning strikes, labor strikes, labor disputes, accidents, regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of such party.

3.6 Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the Parties, their respective legal representatives, successors, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein.

3.7 Section Captions. The captions of the Sections in this Agreement are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.

3.8 Integration, Severability, Amendment, and Counterparts. This Agreement represents the entire agreement between the Parties and supersedes all prior discussions and written agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the Parties. If any provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together constitute one and the same agreement.

3.9. No Third-Party Beneficiaries; No Waiver of Immunities. 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.

3.10 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.

3.11 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.

3.12. Authority of Signers. Each person signing this Agreement on behalf of a party represents and warrants that he or she has the requisite power and authority to enter into, execute, and deliver this Agreement on behalf of such party and that this Agreement is a valid and legally binding obligation of such party enforceable against it in accordance with its terms.

3.13. Attorney's Fees and Costs of Collection. In the event that it becomes necessary for the City to bring any action or proceeding to enforce any provision of this Agreement, to recover damages for Housing Authority's breach of this Agreement, or to seek specific performance, the City shall be entitled to collect its reasonable attorneys fees, costs of suit, and costs of collection as part of the judgment in such action or proceeding, including but not limited to costs of in-house counsel and legal staff.

Executed this _____ day of _____, 2023.

CITY OF PUEBLO,
A COLORADO MUNICIPAL CORPORATION

By _____
Mayor

ATTEST:

City Clerk

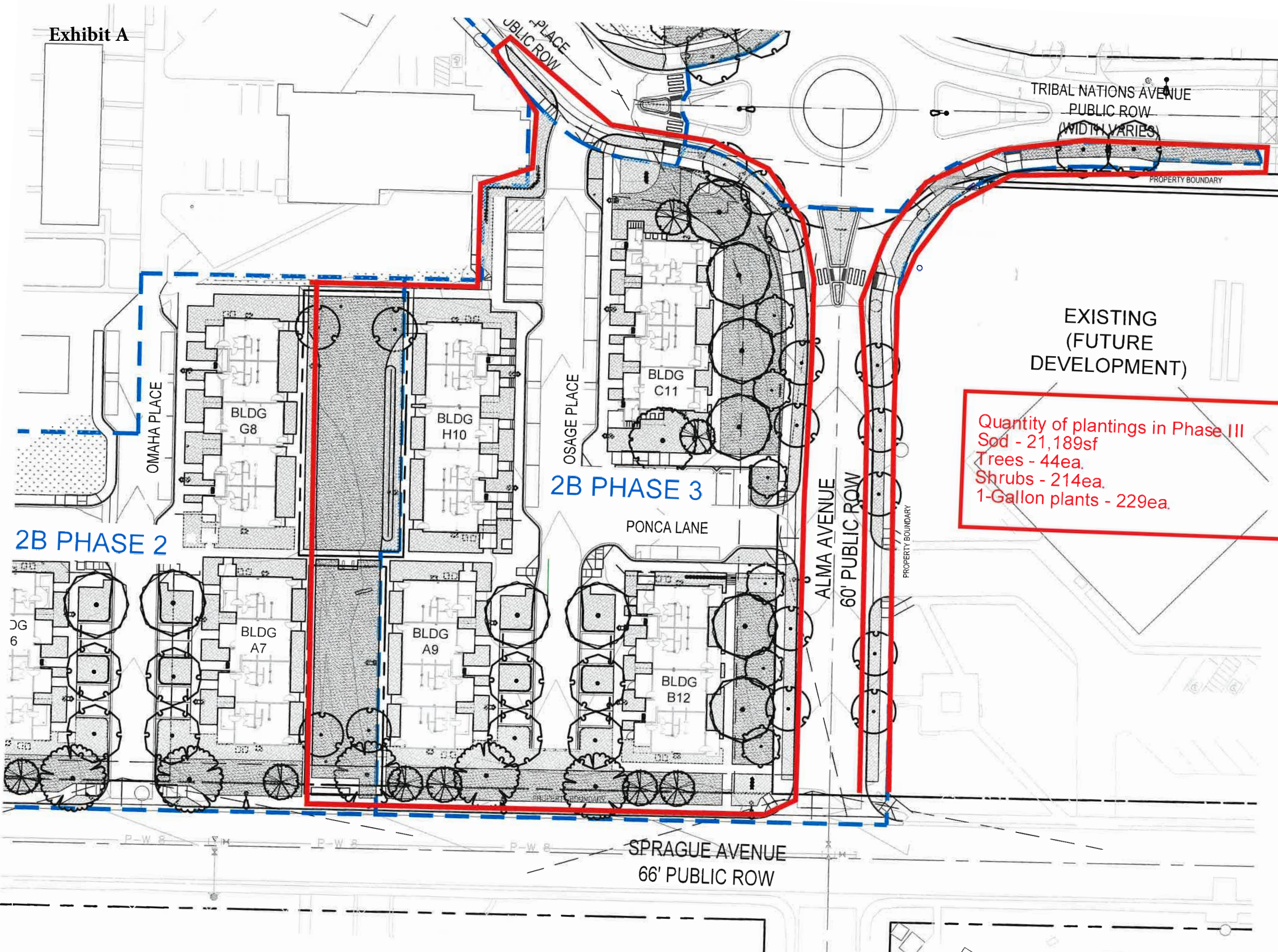
Approved to as form:

City Attorney

THE CENTRAL RESIDENT COUNCIL FOR THE
HOUSING AUTHORITY OF THE CITY OF
PUEBLO, A COLORADO NON-PROFIT
CORPORATION

By _____
Executive Director

ATTEST:



SHEET INDEX

DESCRIPTION

COVER SHEET
LANDSCAPE NOTES & DETA
LANDSCAPE DETAILS
LANDSCAPE PLAN
LANDSCAPE PLAN
LANDSCAPE PLAN
MONUMENT SIGNAGE CONC

THE LOCATIONS OF EXISTI
ARE SHOWN IN AN APPRO
DETERMINE THE EXACT LO
COMMENCING WORK. THE
ANY AND ALL DAMAGES WI
LOCATE AND PRESERVE AI
UTILITIES.